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DECEMBER 2001 & JANUARY 2002, NO. 110, $6.00

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HEGEMONY OF THE HEART
CLARK S. JUDGE

THE LESSONS OF FLORIDA 2000
EINER ELHAUGE

TOKYO CONFRONTS TERROR
DAVID LEHENY

MEDICINE'S RACE PROBLEM
SALLY SATEL

ALSO: ESSAYS AND REVIEWS BY
ALEXANDER ROSE, WOODY WEST,
JON JEWETT, AND HENRIK BERING

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Hegemony Of the Heart

American cultural power and its enemies

By CLARK S. JUDGE

THE POWER OF THE United States looks very different in the aftermath of September 11. Since the attacks, the earth's major nations — ranging from the NATO countries to Russia to China to Japan — and so many others have put aside their differences with the United States. The U.S. and Russia may even emerge, at least for a time, almost as allies and not just against terrorism. There is talk of agreements on nuclear downsizing and missile defense, all but unimaginable before the attacks.

So in the face of a new kind of threat, new international alignments may be emerging. Perhaps the world will be reborn. But if a truly new order is to endure, the United States must take a hard look at one of the most discussed and least understood sources of international antagonism towards it, a source that is part myth and part deceptive reality: the idea that the United States is the dominating global nation, powerful to a degree and to an extent never before seen.

In particular we must come to grips with the differing forms of U.S.

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power, how these differing forms are shaping the international landscape and how they shape the response of others to us. Voices around the world have decried and denounced America's overwhelming presence on the global scene. The question is, why the discomfort? Why the criticism?

After all, in its foreign policy the United States is a "status quo" state. It deploys its material power to preserve the present constellation of nation-states within their current boundaries. It does not attempt to coerce favorable trade deals or tribute from others. It has supported and encouraged the move towards nation-neutral, rule-based mechanisms for governing international economic relations, in other words a system that restricts the sway of its own material might. And indeed, in relative terms the United States is a less imposing force today than in the early Cold War years, when in contrast to now Washington took considerable interest in the internal affairs and international posture of even its closest allies. Yet, although the hand of what is called "hegemony" is lighter, perhaps even nonexistent, today, the voices against that hegemony are louder. What are these critics and antagonists thinking?

Is it simply that, as one scholar of international relations, William Wohlforth, has put it, "[e]lites will not stop resenting overweening U.S. capabilities"? Perhaps those global elites know or sense something that Americans by and large miss. Although America's active, material power is smaller than it was half a century ago, America also commands a remarkable passive, immaterial power — what some have dubbed "soft power" but might more accurately be called cultural power. This form of American power has never been greater or expanding more rapidly. And while in active, material ways, the U.S. is a status quo nation, in these passive and immaterial ways it is a highly disruptive, even revolutionary, global force.

Hegemon?

How? why? The answers have, perhaps, not been fully sorted through. Instead, from global leaders, scholars, journalists, and activists have come disquiet, disapproval, and denunciation about something generically known as American power.

This theme of the unprecedented dominance of the United States on the world stage has been among the enduring topics of international discourse since the collapse of the Soviet Union. French Foreign Minister Hubert Védrine has famously termed the United States the world's "hyperpower" and has called for turning Europe into what he characterizes as a necessary counterweight to America's global dominance. But he has hardly been the only one to embrace — happily or unhappily — the notion of America's untouchable global sway.

On the happy side have been mainly Americans. Clinton administration Secretary of State Madeleine Albright proclaimed the U.S. the international

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order's single "indispensable" nation, a benign equivalent of Védrine's formulation. Similarly, one of her Republican predecessors and critics, Henry Kissinger, in an article published last summer, referred to "America at the Apex," able to insist on its view and prevail in almost any arena, even if, as he worried, it remained unsure of the ends to which it should apply its might or even at times the importance of global political and military engagement at all.

On the less than happy side has been a wide range of voices spanning the Eurasian land mass. Védrine found soulmates throughout the French elite, of course, including both a full complement of his fellow Socialists on the left and Gaullist President Jacques Chirac on the right. Elsewhere, Swedish Prime Minister Goran Perrson echoed Védrine during his country's tenure in the presidency of the European Union when he called for Europe to position itself "as a balance to U.S. domination" of global affairs.

Beyond Europe, even as the Clinton administration spoke of "strategic partnerships" with both Russia and China, leaders of those two countries had begun exploring how to transform the "unipolar" world into a "multipolar" one. In 1996 Russian President Boris Yeltsin and Chinese Premier Li Peng met and, as one observer noted, "all but branded the United States a threat to peace" and explicitly labeled it the world's "hegemon," guilty of "repeated imposition of pressures on other countries." Third World figures ranging from Egyptian Foreign Minister Amre Moussa to Malaysian Prime Minister Mahathir Mohamad voiced at least as emphatically the same analyses and concerns as had come from their European, Russian, and Chinese counterparts.

Even before the attacks, a disenthralled observer would have concluded that American power was not as overwhelming as it had been a half-century earlier.

America has looked much more vulnerable since September 11, as have all traditional nation-states. But even before the devastating suicide attacks and the advent of bioterror, a disenthralled observer would have concluded that American power, while impressive, was not as overwhelming and unchallengeable as it had been a half-century earlier.

Yes, the Soviet Union was gone and no great-power rival had emerged to take its place. But from the perspective of the prior half-century, using many of the traditional measurements of state strength (that is, a nation's relative economic, demographic, and military position), the United States had become less powerful and less dominating between the mid-twentieth century and the new millennium. A few benchmarks trace the slippage.

Economic Strength: The U.S. share of global gross domestic product has

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gone down, not up, over the past five decades. In 1950, the United States produced 27 percent of the global GDP. Today it produces 22 percent. Share of world exports? Same story. In 1953 the U.S. represented 24.6 percent of global exports. Today it is down to 16.1 percent.

In recent years it has been the perverse pastime of advocates of industrial policy and protectionism to hold up such declining numbers as signs of America's eroding competitiveness, and therefore a source of concern. In fact the smaller relative economic position of the United States represents the triumph of 50 years of American global policy, not its failure.

Coming out of World War II, the nation was united in the conviction that for the world to be peaceful it had to be prosperous. From the Marshall Plan to the American-led movement toward freer global trade to billions in foreign aid, American policy was to encourage rapid economic development in all parts of the non-communist (and later formerly communist) world. After five decades the U.S. has grown, but thanks in part to U.S. actions, the rest of the world has grown even more. And while the result has indeed been a broad global peace, it has also been a relatively less dominating American economy.

The smaller relative economic position of the United States represents the triumph of 50 years of American global policy, not its failure.

Despite their rhetoric, the Europeans have been quick to notice and act on this diminished U.S. economic hegemony. Who would have thought, even 10 years ago, that European regulators could successfully block a major merger of two U.S.-based corporations (as they did with GE and Honeywell) or initiate antitrust action against a major U.S. company (as they have with Microsoft)? Only because of changes in relative economic power are such actions now possible.

Demographic Strength: America's share of the world's population peaked in 1927, remained constant for a quarter century, and then began to fall. And while American Enterprise Institute scholar Ben Wattenberg has argued that, thanks to immigration, this trend may be about to reverse, Wattenberg is speaking of the future, not the present. As of today, the U.S. share of global population is the smallest it has been since 1950.

Demographic power also derives from how well-educated a country's people are. Here, too, America may be losing its edge. At one time it was the staple of international commentary that the American people were the best and most broadly educated on earth. Now hardly a month goes by without another article on the amazingly poor performance of American high school students in international achievement tests — not just tests given this year or last year but over the past several decades.

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Military Strength: During the 1950s and 60s, American planners talked of "assured annihilation," a one-sided concept. Beginning in the 1960s, this changed to "mutually assured destruction," suggesting that in a nuclear exchange, the U.S. would be annihilated, too — unthinkable a few years before. The Reagan buildup of the 1980s halted the ongoing erosion of our nuclear position. A partial dismantling of the nation's strategic deterrent may soon emerge from a U.S.-Russian rapprochement. But will it and can it take account of challenges coming from emerging and poorly understood factors, such as an ICBM-equipped China or even Iraq?

Changes in conventional force planning reflect a similar stepping down. From the 1950s to the 1990s, Pentagon planners assumed that our conventional forces could fight a two-front war, essentially a replay of World War II. As dazzlingly capable as our forces are today and as certain as they are to prevail in the current conflict, planning now calls for a one-and-a-half front war, reflecting that our capacity may have diminished faster than our hazards.

Meanwhile, al Qaeda was the first to see that a major challenge could be launched against the United States without a major challenger. It's not likely to be the last. From the Russian mafia, to the Irish Republican Army, to Hamas, to the Latin American drug cartels, it's all too easy to list other non-states that might jointly or separately do damage to U.S. national security over the next several decades.

The point here is not that the United States lacks power. Obviously, America retains the world's most potent combination of national assets. It is only that, despite the disappearance of the Soviet Union, by these traditional and easily counted economic, demographic, and military measures, our relative power is not as overwhelming as it once was. By the numbers that gauge these propellers of power, America's apex came and went decades ago, and all the recent handwringing about the "hyperpower" has been little more than jealous hyperbole.

Cultural power

NATIONS DO NOT, however, live by numbers alone. Again and again in everything from the pronouncements of statesmen to the chants of anti-globalization demonstrators to the manifestos of terrorists, a fourth factor of American power keeps coming up, a factor that often gets a nod of U.S. heads but rarely a close examination — and yet a factor that may emerge as the pivot on which the twenty-first century turns one way or the other. This elusive factor is American cultural power.

A loud chorus of international voices has joined in denunciations of the American culture of Coca-Cola, Disney, McDonald's, and Levi's, a culture that they charge is pushing out all others and taking over the world. They lament the passing of local language, local habits, and local social life in the

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global rush to be just like the United States. In the words of a Randy Newman song, they complain that soon the whole world round will be just another American town. Warning of the dangers of being "infected with Americanization," one head of state even intoned, "We must be wary of McDonald's."

For the moment, international leaders, at least, have set aside these common complaints to deal with the common enemy — which makes this a good time to catch our breaths and ask seriously and searchingly, what could people who say things such as "we must be wary of McDonald's" really be thinking? Do they really believe that where their countrymen grab a snack — or what they wear or where they find light entertainment — has any significance worthy of their attention? At least before terrorists brought down the twin towers, it sometimes seemed that serious people had lost the serious (and one would think easily grasped) distinction between, on one hand, such gigantic questions as national and international security and global economic growth and, on the other hand, lunch. They were consumed with trivialities.

Far more than unleashing global corporations, the rise of markets has ignited the energy of the shopkeeper and the local manufacturer.

And even a casual U.S. observer might have been forgiven for asking: Whose culture is being imposed upon whom? If a McDonald's in the neighborhood compromises French or Middle Eastern or Asian culture, what do the Italian or Indian or Chinese or French or Mexican restaurants that are within five blocks of the typical urban American McDonald's do to the culture of this country? What does it do to our culture for foreign markets to have become so critical to American film producers that even the makers of the recent movie "Pearl Harbor" (surely a topic that invited flag waving) toned down appeals to patriotism and strove for balance, so as not to put off Japanese audiences? One reason for the proliferation of action flicks is that they depend only minimally on language, making them more accessible and popular with non-English-speaking global audiences. And how is American culture compromised by more than a decade of mass immigration, producing the highest levels of first- and second-generation Americans in the U.S. population since the beginning of the twentieth century?

So even a casual American observer might be forgiven for asking those who have wrung their hands about the Americanization of other cultures if this mixing of cultures doesn't go both ways and all ways. Have not communications, transportation, migration, and the mingling of tastes and broadening of perspectives beyond local borders happened to all nations everywhere?

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Still, there is something real behind the complaints about the Americanization of global culture. But this something is precisely behind the complaints, not at the front of them, not on the surface. And this something is profound, even if it is not what those who wring their hands with such manifest silliness say about it. Rather, it reflects deep demographic and economic changes that are occurring in every nation where these complaints are heard and in many others besides — changes that will define the social upheavals of at least the first half of the twenty-first century.

The vast, new global middle class

From Europe to the Middle East to Asia and Latin America, perhaps (although this is much less certain) also in Africa, new classes are rising. Far more than unleashing global corporations, the fall of communism and the rise of markets have ignited the energy of the shopkeeper, the small craftsman, the local manufacturer, and those who aspire to be them. Where local societies are rigid and local elites entrenched, these rising classes (they are not the same everywhere) are profoundly disturbing to established ways. And particularly in more rigid societies, these new classes are likely to look "American" to others. They are likely to be many if not most of those eating at the nearby McDonald's, wearing jeans, and going to see American movies. And more than other groups, they are likely to be, in one form or another, breaking from the restrictive past, reaching out to a future open to ambition and innovation — just like Americans.

Who are these people? Take first the developing world. Many if not most work in what economist Hernando de Soto, in his *The Mystery of Capital*, labeled the "informal sector." These are the people who make their livings in businesses outside local legal systems, because in most Third World countries it is all but impossible to create new businesses or acquire new property within the law. Together with a team of researchers, de Soto has spent much of the past two decades documenting the height of the legal barriers against upward mobility in developing countries. Wherever these investigators have traveled, they have asked how many steps and how long it would take legally to start an enterprise or acquire a piece of property. Their findings include: 168 steps, 13 to 25 years, to gain formal title to urban property in the Philippines; 77 steps, 6 to 14 years, for the same to desert land in Egypt; 111 steps, 19 years, in Haiti; a mere 289 days, devoting six hours a day, to obtain the business licenses required to open a one-worker garment shop legally in Lima, Peru.

The result, of course, is that working outside the law long ago became a necessity for those who are launching ventures or acquiring land and who do not have the bribe money or family and class connections that make these systems work.

Two decades ago, when de Soto started studying this extra-legal activity

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in his native Peru, the "informal sector" looked like a hopeful curiosity. Last year, however, de Soto published the results of expanded studies that have taken him and his teams to the countries listed above and many more. In particular he attempted to estimate the volume of activity in informal sectors across the developing and formerly communist worlds. His results suggested something vastly larger and more powerful than anything previously imagined. A few examples: In Venezuela more than half the workforce is employed in the informal sector. In Brazil, more than 60 percent of new rental housing is in the informal sector. In 1994 in the states of the former Soviet Union, at least 37 percent of all production came from the informal sector (triple the percentage of three years earlier). The same year Mexico officially claimed 2.65 million informal sector businesses. Meanwhile, in Egypt, 92 percent of city dwellers and 83 percent of the rural population lived in homes without clear legal title, that is, in informal sector homes.

The revolution that has so transformed the U.S. economy, society, and politics since the early 1970s has a global counterpart.

De Soto's teams went to considerable lengths to estimate the value of the wealth locked up in real property in various national informal sectors and compared that wealth to the value of major indicators of economic development. They found that in Haiti the value of informal sector real estate was "four times the total of all assets of all the legally operating companies . . . nine times the value of all assets owned by the government and 158 times the value of all foreign direct investment . . . to 1995." In the Philippines it was "four times the capitalization of the 216 domestic companies listed on the Philippine Stock Exchange, seven times the total deposits in the country's commercial banks, nine times the total capital of state-owned enterprises, and fourteen times the value of all foreign direct investment." In Egypt, it was "thirty times the value of all shares on the Cairo Stock Exchange and . . . fifty-five times all foreign direct investment."

Globally, the de Soto team estimated the value of informal sector real estate alone in the Third World and former communist nations at $9.3 trillion or "very nearly as much as the value of all the companies listed on the main stock exchanges of the world's twenty most developed countries . . . more than twenty times the total direct investment into all [these nations] in the ten years after 1989, forty-six times as much as all the World Bank loans of the past three decades, and ninety-three times as much as all development assistance from all advanced countries to the Third World in the same period."

These stupendous numbers suggest something far greater than simple cap-

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ital formation. Viewed as political and social phenomena, they suggest a titanic tide of human ambition and intellectual and financial power pounding at the ancient sea walls of Third World social structures. They suggest that the entrepreneurial revolution that has so transformed the U.S. economy, society, and politics since the early 1970s has a global counterpart. But they also suggest systems that not only attempt to keep their equivalents of Bill Gates and Sam Walton from challenging their equivalents of IBM and Sears but to keep ordinarily ambitious men and women in their places as well. And they suggest that the sea walls may be beginning to crack.

The people of this new human wave may be termed the new global middle class, but they are not a middle class in the sense that most American journalists appear to recognize. Recent reports have portrayed the ringleader of the September 11 attacks as a product of the Egyptian middle class. But with a university education and a father with a university education, he was hardly middle class by the standards of the rising informal sector. Like his patron encaved in the Afghan mountains, he was a child of the old elite.

Members of the developing world's new and vast "middle class" are fueling aspirations with the energy of the marketplace.

Instead, this rising "middle class" includes the likes of the "phone ladies" of Bangladesh. With micro-loans from the Grameen Bank (which invented micro-lending), these village women buy mobile phones and rent time on them to their neighbors. Local farmers pay the phone ladies to call for prices on the regional commodity markets, freeing themselves from the elite of local brokers who once could set any price they chose on a take-it-or-leave-it basis. It is the local maker of concrete in a Manila slum and the jitney driver who ferries him downtown. Wherever they are, it is people whose grandparents did things the way their grandparents did them, lived in places where their grandparents lived, and depended on the systems of family and favors that had defined their societies for centuries. This new and vast "middle class" of the developing world is made up of people who, while still poor by U.S. standards, are fueling the engines of their aspirations with the energy of the marketplace to break free from the old ways.

A similar change is occurring in Europe, with a variety of political manifestations. The eminent political scientist Seymour Martin Lipset has written about the move of one socialist party after another — from Britain to Sweden to Denmark to Spain, Germany, and Italy — away from the old hard left to something "far more like the Democrats and Republicans, instead of socialists and capitalists." Lipset argues, "Many political scientists . . . do not fully appreciate the extent to which the left's new course, its centrist Third Way, is the product of common developments throughout the

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economically advanced democracies rather than of events or leaders peculiar to each country."

According to Lipset, these changes include the decline of national working classes and the increase of middle-class numbers, the availability of advanced education, growing productivity that has diminished lifestyle differences among the European classes, the decline of unionism, the rise of the knowledge and service industries, and the growing appeal to young people of self-employment and entrepreneurship.

A young German has told me of how inhospitable Germany is to entrepreneurship compared to the United States, which is surely true. But he and every one of his friends are starting or involved in new businesses. Like the phone ladies of Bangladesh, they are disrupting old ways, and to the old order, they are doing it in what look like distinctly American ways. In democratic Europe, political parties of both left and right have accommodated these changes, even as leaders complain of the new class's influence by complaining of the new force of American culture. In the less democratic countries of much of the Third World, the accommodation is less complete, the resistance is often stronger, but the complaints about America's cultural power are the same.

Cultural power and moral power

And if, by so many traditional measures, talk of America as the hyperpower is overblown and comments like "we must be wary of McDonald's" surpass silliness, in this way those who are anxious about America's cultural power are absolutely right. In the end the answer to "what could they possibly be thinking?" comes down to this: These ordinary people pursuing their simple aspirations are profoundly disruptive to old systems and old ways. Even more unsettling, these new men and women are achieving a measure of wealth and with it independence and dignity that is challenging the old order. Yes, these new people and their families may eat occasionally at McDonald's. They may occasionally watch a Disney movie. They may wear jeans. But the real way in which they have become carriers of something like American culture is in the quiet, daily manners in which they assert their personal hopes despite the opposition of tradition, custom, and power — in other words, despite the opposition of their home cultures and elites.

The great battle of the twentieth century was between freedom and totalitarianism — an entirely political conflict. The great battle of the twenty-first century may well be between the forces of creative destruction and those of destructive preservation — much more a social and cultural conflict. Americans will wonder, what have we done to be drawn into conflicts like the present one? The answer is simple: Our example is the hope of those who are striving and rising. We cannot escape this conflict by changing what

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we do in foreign policy or other arenas of action, because in this arena our power derives not from what we do but from who we are — and what we represent to these new classes and those who oppose them.

In recent books both Tom Wolfe and David Brooks have portrayed American culture at the new millennium as almost entirely oblivious to the outside world. Tom Wolfe's archetypal American is an air-conditioning mechanic, a blue collar man who "was fulfilling . . . nineteenth century utopian socialists' dreams of a day when the ordinary workingman would have the political and personal freedom, the free time and the wherewithal to express himself in any way he saw fit and to unleash his full potential." But if his hero gives a moment's thought to anything outside his immediate circle, much less outside the country, Wolfe doesn't notice it. Similarly David Brooks's new professional and managerial class — as he calls them, "Bobos," bourgeois bohemians — "have been trained, nurtured and [college and graduate school] educated. They have been freed of old restrictions and they have forged some new bonds. . . . [T]hey have the ability go down in history as the class that led America into another golden age." But it is America he sees them leading, not the world.

Yet like it or not, the world will not let us go. It might be said that in country after country, those who are threatened on the top are seeking to combine with those who are frustrated on the bottom against those who are rising in the middle. We ask why they hate us, and the answer is that "they" hate and fear so many people in their own countries for whom America has become an emblem — and so far as they feel the same tug that these new men and women feel, they hate themselves.

The disdain and hate we have come to recognize in at least one part of the world since September 11 seems so new to us, but in a way it is very old. For America's cultural power is of a piece with its moral power, the hope the nation represents to humanity and the deepest source of America's strength from the very beginning.

This year's winner of the Nobel Prize for literature, V.S. Naipaul, has written of this moral and cultural force. He has noted in particular "the beauty of the idea of the pursuit of happiness." He explains: It "is at the heart of the attractiveness of the civilization to so many outside of it and on its periphery. . . . I don't imagine my father's parents would have been able to understand it. So much is contained in it: the idea of the individual, responsibility, choice, the life of the intellect, the idea of vocation and perfectibility and achievement. It is an immense human idea. It cannot be reduced to a fixed system. It cannot generate fanaticism. But it is known to exist; and because of that, other more rigid systems in the end will blow away."

So America's singular hegemony is not of dollars or numbers or guns. It is a hegemony of the heart, and America's critics are right: The world has truly never seen anything like it.

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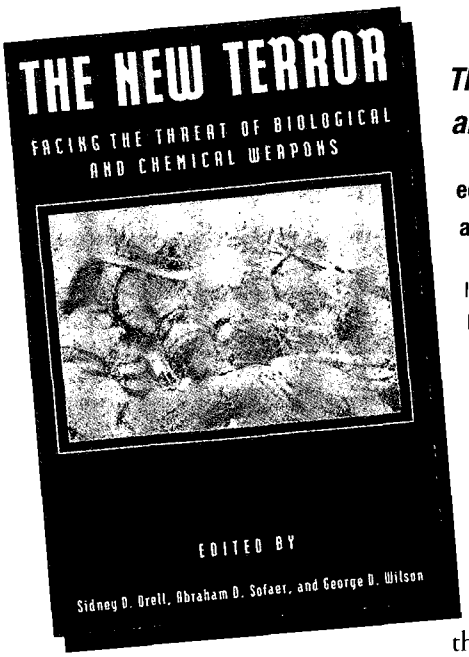
CONFRONTING THE NEW TERROR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FACING THE THREAT OF BIOLOGICAL AND CHEMICAL WEAPONS
EDITED BY
Sidney D. Drell, Abraham D. Sofaer, and George D. Wilson

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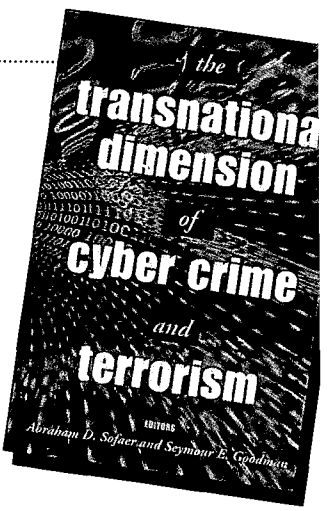

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The Lessons of Florida 2000

By EINER ELHAUGE

IT HAS NOW BEEN a year since the U.S. Supreme Court cut off the manual recount in the Bush-Gore election. In the heat of the battle, it seemed few could dissociate who they thought should win from how they thought the disputed issues could be resolved. Perhaps for many this is still true. But for the rest of us, the events of last year may have acquired a sufficient distance, lengthened by the intervening shock of September 11, to allow us to put down our partisan positions and ask ourselves how we would want these issues resolved in the future.

If we learned anything from this election, it was that resolving election issues in midstream, after we know which candidate will benefit from any given resolution, is a recipe for disaster. Right now, while we are still behind the veil of ignorance and do not know which candidate will benefit, we need to resolve as many open issues as we can.

Einer Elhauge is a Harvard law professor and represented the Florida House of Representatives during the 2000 election dispute. The views expressed here are his own and are not intended to represent the views of either institution.

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Some of the issues will be familiar, since they arose in the actual dispute. But they have been greatly misunderstood, both because the rapid pace of developments did not allow for sufficient explication and because insufficient attention was paid to how the candidates would want the issue resolved if their positions were reversed in the next election. Other issues will be unfamiliar, for they are the issues that would have arisen had the Supreme Court not called a halt, and may well arise the next time around. And if anything was clear to me as I nervously anticipated those issues at the time in my role as counsel to the Florida House, it was that the issues barreling down the track would have been even more explosive and bitterly contested than the ones we all argued about a year ago.[1]

LESSON 1. *Better voting machines.* Let's begin with the seemingly most obvious lesson: We need better voting machines. But now the nonobvious point: The problem was not, as conventional wisdom thought at the time, with punch card technology. The exhaustive media recounts have confirmed that punch card and optical-scan ballots actually resulted in similar rates of spoilage, defined as the total of undervotes and overvotes. (An undervote is a ballot that registers no vote for a candidate, while an overvote is a ballot invalidated by votes for multiple candidates.)

How can that be? Didn't we all at the time hear statistics that seemed to confirm the superiority of optical scanners? Well, not quite, for two reasons. First, although the focus at the time was on the undervotes that Gore and the Florida Supreme Court wanted recounted, it turns out that there were twice as many overvotes, and they were a bigger problem on the optical-scan ballots.

Second, and more important, the counties in which optical-scan ballots seemed to be delivering better results were actually only those counties that counted ballots at the precinct level. Under these systems, the ballot result is registered or rejected by the machine when the voter turns in the ballot. Such a precinct counting machine provides voters with timely feedback that allows them to correct any errors in their ballots. But when punch card ballots were also machine counted at the precinct level, they had a similarly lower rate of spoilage. When either optical-scan or punch card ballots are machine counted at a centralized county location removed from the precinct and the voter, the rate of spoilage is higher, but similar for both types of ballots.

The implication is that what really would constitute "better" voting machines are not machines better at *counting*, but machines that are better at *correcting voter errors*. This is not at all to trivialize the concern. No mat-

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[1] In developing these points, I am grateful for comments on an earlier draft of this article from Randy Barnett, Richard Epstein, Richard Fallon, Barry Friedman, Mike Klarman, Nelson Lund, Dan Meltzer, Frank Michelman, Rick Pildes, and Eric Rasmussen.

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ter how smart we may think we are, we all push the wrong elevator button from time to time. Machines that would help us avoid these inevitable errors in voting are important and useful. But correctly understanding the issue should put to rest the misguided bugaboo that certain counting machines were disenfranchising voters. The actual problem is that locating the counting machines too far from the voters disables those machines from helping to prevent voters from disenfranchising themselves.

Should we care about this problem? Some argue that the word "spoilage" seems inapt because sometimes voters *intentionally* don't vote for any candidate for a particular office because they don't like any of them, or vote for multiple candidates because they regard the choice as too close. We thus cannot assume that under- or overvotes fail to accurately reflect the voter's intent. Perhaps we should make "none of the above" an explicit ballot option. Still, when some voting setups regularly produce many more under- and overvotes than others, the difference is likely due to unintentional errors. So it makes sense to create machine setups to give voters the feedback that helps them minimize those errors. We should do so not only for the sake of those of us who make such errors, but because the more precise the ballot answers we can get from voters, the less likely we all will suffer through bitter controversies about how to interpret the ambiguities they leave behind.

Should we instead be worried about a different problem: the distribution of machines of supposedly poor quality? Many were concerned by the evidence in Florida that a greater proportion of minority voters had spoiled ballots, producing the suspicion that they were saddled with worse machines. But the recount undertaken by the National Opinion Research Center on behalf of a consortium of media outlets indicates the higher minority spoilage rate was true regardless of machine type, and that the distribution of each machine type was similar for black and white areas. Nor can one assume that, because most minority voters are Democrats, any disparity hurt or was targeted at Gore. A study by John Lott reports black Republican voters were an astonishing 50 to 66 times more likely than the average black to have a spoiled ballot, and that black Democratic voters actually had a slightly lower spoilage rate than the average voter. His findings also seem inconsistent with any conspiracy by white or Republican election supervisors, since the rate of spoiled ballots was 14 percent to 31 percent higher in precincts with black or Democratic election supervisors. The overall rate of spoiled ballots was also higher for white Republican voters than white Democratic voters. In any event, the lesson for the future should be to have the best machines possible in *every* county — those that provide immediate feedback. That decision can either be made at the state level (as Florida has now done) or by the counties, which should have ample incentive to pick the best machines for themselves since to do otherwise would merely reduce their own electoral clout.

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LESSON II. *Manual recounts should be limited to cases of machine malfunction.* Having deployed machines to help reduce human-created ambiguity in the act of voting, it also makes sense to deploy them to reduce such ambiguity in the counting. Manual recounts require problematic subjective interpretations of ambiguous marks left by voters, and the counters have their own political preferences that (consciously or not) are likely to bias their counting.

The nearly year-long media recount completed in November confirms the problem. This was a highly professional recount, conducted under standards applied uniformly within each county by counters who were screened for political bias. Even so, counters frequently disagreed in their ballot interpretations. Although counters agreed on 96 percent of punch card ballots, that 4 percent error rate greatly exceeded the 0.001 percent margin in the Florida presidential election. Thinking that human recounts with that sort of variation can check the accuracy of a machine count is rather like trying to recheck a machine's measurement of electron width using the human eye and a yardstick. Moreover, this 96 percent figure is misleading because it includes agreements on ballots where there was no marking to dispute. On ballots where at least one counter saw a potential vote for Bush or Gore, the counters disagreed 34 percent of the time, 37 percent for punch card ballots.

Most worrisome, even with elaborate efforts to screen for political bias, the political affiliation of the counters affected the results. Republican counters were 4 percent more likely than Democratic counters to deny a mark was for Gore. Even more striking, Democratic counters were 25 percent more likely to deny a mark was for Bush.

None of this should be taken as criticism of the National Opinion Research Center, a highly respected nonpartisan outfit that made scrupulous efforts to check for political bias. Nor does it necessarily reflect badly on the counters, whose bias might well be unconscious. Rather, the problem is endemic to using humans to count ballots. Indeed, the lesson is quite the contrary. If this is the sort of accuracy and bias one gets from an unhurried, professional nonpartisan organization whose counters were screened for bias and bound to the *same* standard, imagine the sort of inaccuracy and bias that would result from a partisan set of counters, rushing to complete a recount quickly, and free to vary their standards.

But don't machines have their own inaccuracies, failing to register votes when chads are punched out but hanging on by a cardboard thread, or when some misguided voter both fills in the box for a candidate and also casts a write-in vote for the same candidate? Sure. But in analyzing the issue we must be sensitive to *relative* inaccuracies. A human recount that is 4 percent inaccurate cannot improve upon a machine count that is 1 percent inaccurate. More important, even if the error rates are equal or even higher for machines, the machines are far less likely to alter the result. Even if machines failed to detect votes at an enormous rate, like 10 percent, that will rarely

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alter the result because machines make any errors randomly, and thus should undercount a proportional share of each candidate's votes. A much smaller error rate that is biased toward one candidate can, on the other hand, produce a significant *net* change and thus alter the result. Moreover, manual recounts not only raise problems of misinterpretation and bias, but also are more likely to produce simple math errors, may alter ballots through handling, or even involve conscious mischief or fraud.

So whether my candidate is ahead or behind in the next election, I would still conclude manual recounts should be allowed only when there is some machine malfunction that gives us reason to think the machines are far less accurate than normal. And while we all don't know whose ox will be gored, we should adopt that lesson for the future. After all, machine counting was introduced in this country not just for speed and cost, but to reduce the fraud and other human error that used to routinely attend ballot counting. Under a regime of manual counting, as Stalin said, "The people who vote decide nothing; the people who count the vote decide everything." There is no reason to subject ourselves to such a regime when we have reasonable alternatives.

In manual counting, as Stalin said, "The people who vote decide nothing; the people who count the vote decide everything."

Now, permit me a detour into the partisan-tinged past that I think carries a lesson for the future. In fact, there were powerful reasons to think the Florida statute in 2000 *did* limit manual recounts to cases of machine malfunction. As counsel for the Florida attorney general (Gore's state chairman) conceded, before this litigation Florida had never allowed a manual recount to be based on a claim that humans can interpret ballots better than machines. To the contrary, such claims had been repeatedly rejected, including in Broward and Palm Beach counties. Instead, the statute provided that manual recounts could be done only if the machines malfunctioned. That is why manual recounts had to be county-specific — they were supposed to rest on a defect in that county's machines — rather than statewide as they would be if the defect were a general problem in interpreting ballots. That is also why a strict deadline was set: Since manual recounts were supposed to be mere counting exercises rather than elaborate efforts at interpretation, seven days with an ability to hire many counting teams more than sufficed. The only statutory remedy for a close election was a machine recount.

The Florida Supreme Court instead interpreted the statute to provide that manual recounts must always be done in any close election. So much attention was focused on the deadline issue that the most dubious aspect of this interpretation was missed by almost everyone: the Florida court's conclusion that judicial contests could overturn a certified election result without show-

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ing any illegality by election officials at all. This deviated from prior caselaw requiring "substantial noncompliance" with the law, including a case specifically holding that a contest could not be used to challenge a county's lawful decision not to conduct a manual recount to pick up partially perforated chads. The ostensible excuse was that the Florida legislature had enacted a 1999 statute on contests that changed this law. But the statute on its face required the "wrong" of rejecting a "legal vote," not a ballot legally interpreted to cast no vote. And the legislative history stated that the statute "codifies" prior law, not that it changes the law. Indeed, in 2000, just one week prior to its conclusion that the "substantial noncompliance" test could not bar Gore's contest, the Florida court had ruled 7-0 that another contest should be dismissed for failure to show substantial noncompliance with law.

The lesson for the future from this retrospective detour lies in the question: What drove the Florida court to this contentious interpretation? Republicans naturally suspect partisanship. After all, the Florida court was dominated by activist liberal Democrats, most of whom had been chosen for appointment by Gore's counsel. But the deeper reason was probably the court's deep-seated empirical premise — never critically examined — that manual recounts are more accurate than machines at interpreting the intent of the voter. Future courts are likely to share this premise regardless of partisan considerations, because courts as a class tend to have an exaggerated view of the accuracy of their own processes and thus have a hard time saying there is any wrong (such as some inaccurately counted ballots) without a remedy. Herein lies the lesson: When legislatures restrict manual recounts, they must be extraordinarily clear. Any such statute needs to state explicitly why and when it regards such a judicial cure as worse than the supposed machine-caused disease.

LESSON III. *Adopt objective standards in advance to constrain human decision-making.* A third lesson flows obviously from the prior analysis: To the extent humans make post-election decisions that affect who will win an election, they must when possible be governed by clear objective standards established in advance of the dispute. We cannot allow humans, who inevitably have their own partisan views, to exercise standardless discretion in the midst of an election crisis when they and everyone else know which candidate will benefit. The risk is simply too great that any decision they make will be biased (consciously or unconsciously) in favor of their preferred candidate, and even if uninfected by actual bias will be perceived to be biased in a way that taints the legitimacy of the result. In the 2000 election, the big issues were about whether, where, how, and which ballots to recount manually, but the basic proposition seems generalizable to any issues left to midstream resolution by humans.

I say this lesson is obvious, and yet the United States Supreme Court has gotten a lot of undeserved grief for effectively imposing this norm under the equal protection clause. Critics argue that Florida's manual recount process

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— while inaccurate, arbitrary, and haphazard — was not unconstitutional. Ronald Dworkin, for example, argues that the equal protection clause is only violated when state law creates "distinctions that put some citizens, in advance, at a disadvantage against others." But what made this process alarming was precisely that it did *not* set forth any objective standards "in advance." Such standardless discretion in the hands of partisan county officials is worrisome because it allows them to engage in *sub rosa* discrimination against the opposing party about how (and indeed whether) to conduct manual recounts. Since without standards such discrimination is hard to prove, the best way to vindicate the constitutional right of equal treatment is to prevent the partisan officials from exercising such standardless discretion at all. For precisely this reason, well-established Supreme Court precedent makes standardless discretion unlawful if used to hand out parade permits or locate newspaper boxes. Why should the protection be any less when discretion is being exercised over the far more fundamental question of which votes to count?

The concern was not with county differences, but with standardless discretion that would allow discrimination against candidates.

This understanding of the Supreme Court decision also explodes another critique: that it is internally incoherent because if one really accepted the court's logic, any election in which some counties use better voting machinery than others would also violate the equal protection clause. But this misses the point that the concern was not with county differences, but with standardless discretion that would allow discrimination against candidates. Just as no constitutional difficulty is raised when different counties in advance set forth different hours for parade permits, so too no worry about *sub rosa* discrimination is raised when counties have different voting systems as long as they are adopted in advance. No county has incentives to reduce its own clout, so any decision it makes is essentially a judgment about which machines count best or a tradeoff between that goal and the costs of new machines. Different counties may make different judgments or tradeoffs, but as long as they make their judgment in advance, it does not reflect one party trying to manipulate the electoral rules to discriminate against the other party. What is worrisome is when partisan election officials get to decide whether and how to do the recount after they find out which party is a little behind.

The same goes for setting standards for interpreting ballots. If, in advance of an election, counties adopt differing standards for interpreting punch card ballots — one a "two corners" standard, and another a "four corners" — that should raise no constitutional difficulty because no county has incentives to adopt an interpretive system that undercounts its citizenry. It is when

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county officials make such decisions knowing which candidate will benefit that the problem is raised. As the media recounts emphasize, one gets a different vote count for every standard one chooses. But as long as the counties choose their objective standard before they know who will benefit, they should be free to adopt differing standards. A dimple standard should probably be rejected given the evidence from the media recounts about how particularly variable (and subject to bias) human judgments about dimples are. But any objective standard that reasonably constrains human discretion should be permissible.

A critique that is more on point argues it cannot be unconstitutional to apply an "intent of the voter" standard because similarly vague intent standards are applied all the time by juries. But, as the U.S. Supreme Court explained, such vagueness is allowed only for issues that are not susceptible to more objective standards. Rules for counting ballots can easily be more objective — one need only pick an objective standard before the election and stick to it. The Supreme Court is not asking the impossible, but when an objective standard is possible, state officials cannot instead retain a discretion that maximizes their influence over results.

As long as the counties choose their standard before they know who will benefit, they should be free to adopt differing standards.

A more legalistic objection, offered by my colleague Alan Dershowitz, is that past equal protection caselaw has required proof of facial or intentional discrimination. But this objection does not really come to grips with the caselaw on standardless discretion, where the very objection is that the lack of any standards against which to test the results makes it impossible to prove intentional discrimination, and thus requires the imposition of standards to root out *sub rosa* discrimination. Nor does the objection accurately describe modern election law since the leading case of *Anderson*. That case was brought by presidential candidate John Anderson in the 1980 election, challenging the application of a state's filing deadline to his decision to run as an independent after he lost in the Republican primaries. The filing deadline was facially neutral and no showing was made that it was intentionally discriminatory. Nonetheless, the Supreme Court struck it down on the grounds that it was set too early for independent candidates. Instead of requiring facial or intentional discrimination, the court articulated the now-prevailing test that state election law must in its effects be both nondiscriminatory and reasonably related to important state interests. It is no great leap to say the imposition of a system of standardless discretion for interpreting ballots does not meet those requirements.

A related objection is more visceral: Manually counting ballots is too tra-

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ditional to be unconstitutional. After all, for over a century that was the *only* way of counting ballots, and for the remainder of our history manual recounts have been accepted. But traditional practices often become unconstitutional: Indeed, the recognition of a constitutional right to an equal vote itself overturned nearly two centuries of contrary practice. The invalidation of traditional practices is particularly appropriate when changed circumstances alter their implications. The sort of filing deadline at issue in *Anderson,* for example, also had a long and accepted history. But it was invalidated nonetheless, with the court reasoning that the "passage of time since the Constitutional Convention in 1787" had changed the deadline's reasonableness because changed technology and expanded literacy made spreading information about late-developing independent candidates more feasible. Here, too, changed technology is relevant, making it both more necessary and possible to limit human discretion in ballot interpretation — more necessary because machine ballots leave things like partially perforated or dimpled chads whose significance is much harder to interpret than a mark next to a candidate's name on an old-fashioned paper ballot; more possible because rules more precise than voter intent can be developed for determining how many chad corners must be perforated, and because the machines themselves are always available to count the ballots free of concern about human bias and subjectivity. In any event, the Supreme Court never outlawed all manual recounts, just those conducted without any consistent standards.

Changed technology makes it more necessary and possible to limit human discretion in ballot interpretation.

The above objections also suffer from being fixated on what rule governed in the past. The important question now is what rule should govern the future, and it is hard to see a convincing reason why we wouldn't want a rule that limits standardless discretion by election officials in future elections. True, Alan Dershowitz argues the real problem is partisan decision-making by the U.S. Supreme Court. He claims there is no possibility the court majority would have reached the same conclusion had the position of the candidates been reversed. But seven of the nine justices found an equal protection violation, including Democratic Clinton appointee Stephen Breyer. And it does not seem at all implausible that they would have reached the same conclusion if the party affiliations of the candidates were reversed, and that they would and should do so in the future.

If you are a Gore supporter, consider the following thought experiment. Suppose in 2004 Al Gore runs against Bush again and the election again hinges on a close result in a single state, only this time Bush is slightly behind after the machines count the votes. Bush seeks a manual recount only in a selection of highly Republican counties. State law provides for machine

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counts and recounts, and allows manual recounts only for county-specific errors in machine tabulation, not based on a claim that humans can interpret ballots more accurately than machines. Bush's counsel concedes manual recounts have never been used for this purpose under the state statute, and the Democratic secretary of state vested with authority to interpret the statute interprets it not to permit manual recounts for those purposes. Consistent with this, the Republican county boards initially deny manual recounts, but later reverse this decision under pressure from national Republican leaders working for Bush. The Republican county boards then assert that, even without any machine defect, they have unfettered discretion to decide whether to do manual recounts when election results are close. They are upheld by a state supreme court dominated by highly activist conservative Republicans, most of whom were appointed by Bush's counsel. The Republican county boards begin the recount under the pre-existing perforation standard, but switch standards when the first one produces little net gain for Bush. When this still does not create much of a net gain for Bush, they switch to a policy of exercising discretion over *which* standard to apply. When the counties fail to finish the manual recount by the statutory deadline, the Republican state supreme court extends it. When the counties also fail to meet the new judicial deadline, the Republican state supreme court holds that judicial contests can overturn election results without any legal violation despite longstanding precedent to the contrary, including a case the same court had decided a mere one week earlier. Although the Republican court had earlier been willing to allow Bush to pursue selective manual recounts in heavily Republican counties, now that it has become clear such a selective recount cannot produce enough Bush votes, the court orders a statewide recount that Bush never requested. Partisan county election officials are left with complete discretion over what standards to use, and Bush's counsel concedes the standards being applied vary not just from county to county but from table to table.

A state court that says the state legislature's directions imply one deadline for presidential contests cannot change that deadline.

Would not Gore supporters in such a case feel justifiably aggrieved? And do we really have any doubt that in such a case the U.S. Supreme Court would — and should — reach the same conclusion it reached in the actual case? Contrary to Dershowitz's claim, I think the vote would have been — and would and should in the future be — unanimously for Gore in such a case.

Still, critics complain, the proper remedy should have been to remand for a recount done under uniform standards that constrain discretion, not to

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stop the recount altogether. Now I must admit that at the time this critique seemed forceful: Equal protection claims naturally suggest the remedy of redoing things equally. But on reflection, the Supreme Court did the right thing, for reasons that are likely to arise in the future and should produce the same result no matter which candidate benefits.

First, the Florida Supreme Court had already held — as any state court would likely hold in a future case — that under state law the time for finishing presidential contests must be circumscribed by the deadline federal law sets for making the resolution of judicial contests binding on Congress when it counts electoral votes. True, in a normal case the U.S. Supreme Court would simply remand and leave such a state law issue to the state supreme court, in part because the state court might change its view of state law.[2] Having changed the state deadline on manual recounts twice before, it would hardly have been surprising if the Florida Supreme Court had tried to do so a third time. But the situation with presidential contests presents a special case because (unlike in other areas) federal law constrains the power of a state court to change its understanding of state law under Article II, which imposes a constitutional requirement to follow the state legislature's directions. Accordingly, a state court that says one week the state legislature's directions imply one deadline for presidential contests cannot the next week change that deadline without violating the federal Constitution. Thus, this is one case where it makes sense for the U.S. Supreme Court to express its view about the state law baseline. Had the luxury of time been available, the U.S. Supreme Court could have first remanded without expressing its view and

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[2] Actually, one can question the assumption that the laws governing presidential elections involve state rather than federal law. Although adopted by state legislatures, such laws are not enacted under authority vested by the state constitution but under authority vested by the federal Constitution directly on state legislatures. This is why such presidential election laws need not be presented to the governor nor comply with other state constitutional laws. Further, the laws deemed to be federal laws under the supremacy clause are not defined as laws enacted by Congress but laws enacted "in pursuance of" the federal Constitution, which would seem to include any law enacted pursuant to a constitutional power. Likewise, the federal Constitution defines the "federal judicial power as extending to all questions arising under this Constitution, the Laws of the United States . . . or which shall be made, under their Authority." This seems to include in the definition of a federal question any law made under the authority of the federal Constitution. Accordingly, one might conclude that when adopting a presidential election code any state legislature is exercising federal powers and adopting a federal law whose ultimate interpretation properly rests with the U.S. Supreme Court, not state courts. But that line of analysis was never pressed and played no role in the U.S. Supreme Court's actual decision. Perhaps, though, it would help ameliorate the problem in the future to, under this theory, make the U.S. Supreme Court available to directly review wayward lower court interpretations of presidential election codes.

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stood ready to reverse under Article II if the state court tried to change state law. But since its opinion came out on the eve of the federal deadline, the U.S. Supreme Court had a compelling reason to express on that date its understanding of what the Florida Supreme Court had said about the state law deadline — to create a judicial resolution in time to assure Florida's electoral votes would be counted in Congress, as the Florida Supreme Court had said it wanted and state law required. (It also staved off a state legislative appointment of electors that would have occurred the next day had the federal deadline passed.) In effect, the U.S. Supreme Court's statement adopting the Florida court's prior statements about the Florida deadline for presidential contests telescoped into the present any future Article II decision that would have been necessary had the Florida court tried to change that deadline.

Adopting objective standards in midstream does not help if by then the decision-maker knows who will benefit.

The second reason is more directly connected to the underlying equal protection theory. To really satisfy the objections to using standardless discretion to resolve election issues, rules that constrain that discretion must be adopted *in advance*. Adopting objective standards in midstream does not help if by then the decision-maker knows who will benefit. Had the U.S. Supreme Court remanded for the Florida Supreme Court to pick a standard, that court would have had to exercise standardless discretion about *which* standard to use. Perhaps early in the process, the Florida court could have picked the perforation standard that at least was the pre-existing test in Palm Beach. But by December 12, both high courts knew too much. The partial recounts and revealed preferences of Bush and Gore indicated that a perforation standard favored Bush and a loose dimple standard favored Gore. Choosing the standard was thus tantamount to choosing the president. Nor was there any objective test for making a choice among the standards for interpreting ballots. Either would be constitutional if chosen in advance. But to choose among them in midstream, knowing which candidate would benefit, would be to exercise the very sort of standardless discretion that made the manual recount unconstitutional. Remanding thus could not cure the constitutional problem; it would simply have made the Florida justices, rather than county commissioners, the state actors exercising standardless discretion. Given this dilemma, the best solution is to stick to the only objective standard that had been picked in advance — the interpretation provided by the machine count — which is effectively what the U.S. Supreme Court did by stopping further manual recounts, and what it should do again in a similar future case no matter what the identity of the candidates.

Despite what Gore repeatedly said in the last election, the dispute was

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never about whether to "count every vote." The issue was — and will be in the next dispute — about *how* to count the ballots. The U.S. Supreme Court correctly established that counting methods cannot involve midstream exercises of standardless discretion. They must instead conform to objective methods established beforehand by lawmakers who are behind a veil of ignorance about the question of who benefits. It is when we are behind that veil for the next election, and don't know which candidate will benefit from our rules, that standards should be set.

This is hardly to say the problems were all on one side. Well before the election, the Florida legislature had directed the Florida secretary of state to "adopt rules prescribing standards" that "shall ensure that ballots are counted in a uniform and consistent manner." Had Katherine Harris obeyed this statutory mandate, the entire mess would likely have been avoided. George Bush had signed a bill in Texas allowing for the counting of dimpled ballots in a way that also probably fails to provide sufficient protection against standardless discretion. But the point is not to assign blame for the past, it is to preclude similar problems in the future. Now that the U.S. Supreme Court decision in *Bush v. Gore* is the law of the land, it is incumbent upon every state to bring its election law into compliance by minimizing whenever possible any role left to standardless discretion exercised by humans.

Lesson iv. *Limit partisan involvement in election decisions.* No matter what scope is given to machines, and how well-defined our advance standards, some irreducible role will be left to human decision-making in resolving election disputes. It will thus be important to heed the fourth lesson from the 2000 election debacle: Those who make election decisions should be rendered as non-partisan as possible.

At a minimum, election officials should not serve as campaign chairs for any candidate. It is tempting to do so because elections are not normally close. But being an election official is a job that only really matters in close elections. Here, both sides were at fault in Florida. Both Secretary of State Harris and Attorney General Bob Butterworth were the respective state campaign chairs for Bush and Gore. But Harris's conflict of interest proved the more damaging. Her initial interpretation that manual recounts were not authorized absent machine malfunctions was actually completely right on the law, and if respected would have nipped the dispute in the bud. But her clear conflict of interest made her all too easy to ignore. No election official should be in a position of being disabled from giving authoritative neutral advice when it matters most. This was the norm in most states already, but it should be codified and extended to all states.

I would go even further. In the Florida election, it seemed plain that election officials were influenced — or at least could justifiably be perceived to be influenced — by the political threat posed by the need to get re-elected, often by narrow county constituencies. It also seemed clear both election officials and judges suffered in their legitimacy because they were constantly

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described by their political affiliation, as in the "Democratic Florida Supreme Court" or the "Republican U.S. Supreme Court." It is difficult to have confidence in election resolutions under such a system.

To address these problems, election officials should be appointed to insulate them from political influence during elections. Further, both they and judges, as a condition of taking office, should give up their party affiliation and right to vote in future elections. There is some precedent for this. For just these reasons, Justice John Marshall Harlan refused to vote in presidential elections, and Canadian law prohibits judges from voting. To be sure, this is no panacea. Any election officials or judges will inevitably have been appointed through some political means and be identifiable by the partisan affiliations of the officials who nominated them. But it should be understood that just as a monk gives up earthly possessions when entering the monastery, so too election officials and judges give up their partisan affiliations when they take on their roles. They should not have a rooting interest in elections. We should not have Democratic or Republican election officials or judges; we should have election officials or judges for all of us. Giving up their political affiliation and participation would be one important way to signal that commitment.

LESSON V. *Define the rules for state legislative involvement.* Now we come to the even more controversial set of issues that would have arisen had the U.S. Supreme Court not called a halt to the manual recounts. Of these, perhaps none is more explosive than defining the role of state legislatures in directly appointing presidential electors when elections go bad. The Florida House had already voted to appoint electors before the U.S. Supreme Court ruled on December 12, and the Florida Senate was scheduled to complete the appointment on December 13 if the court failed to resolve matters. Then all hell would have broken loose, because Gore supporters vociferously disputed the power of the state legislature to make such an appointment. And there are some reasonable grounds for disagreement that we should, again, resolve now — rather than wait until we are in the midst of another bitter election dispute and know who might benefit.

A bit of background is necessary. The Constitution requires that presidential electors shall be chosen in whatever manner state legislatures direct. Early in our history this was often done by direct legislative appointment, but since then legislatures have fallen into the salutary democratic habit of directing that electors be chosen through state elections conducted according to legislatively prescribed rules. Congress has two relevant constitutional powers: the power to set the time for the choosing of electors, and the power to count the electoral votes. Pursuant to the first power, it has promulgated a statute providing that if a state's election "has failed to make a choice" on the election date prescribed by Congress, then the state legislature can after election day appoint electors in any manner it deems fit. Pursuant to the sec-

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ond power, it promulgated a statute providing that, in deciding whether to count electoral votes, Congress will regard the results of a state judicial contest as binding if it is completed six days before the Electoral College meets (which in 2000 meant December 12) and is resolved in accord with pre-existing law.

Unfortunately, neither the statute nor any caselaw provides any criteria for deciding *when* an election "fails to make a choice" or *who* gets to decide when no choice was made. Nor had any case addressed who has the power to decide when a state court has failed to comply with pre-existing law and legislative directions. As counsel to the Florida House of Representatives, I took the view that if the election failed to make a choice conclusive on Congress, it should also be deemed to have failed to make a choice conclusive on the Florida legislature, which should thus be prepared to directly appoint the electors. If the election contests had not been resolved by December 12, they clearly would have failed to make a choice conclusive on Congress under the federal statute, and the legislature would have been justified in directly appointing electors to assure Florida was represented in the Electoral College. I also thought that, since the state legislature was the one responsible for directing how electors were chosen, it had the responsibility for determining whether its election had failed to comply with pre-existing law or to follow legislative directions in a way that satisfied constitutional requirements.

If a state's election "has failed to make a choice" on the election date prescribed by Congress, then the state legislature can appoint electors in any manner it deems fit.

These views were controversial. Others, most notably Bruce Ackerman, took the view that an election did not fail to make a choice unless no choice was certified by the state executive or state supreme court. The fact that the election choice might not be conclusive on Congress was, to them, irrelevant. They further thought that the question of whether election contests complied with pre-existing law was a matter of state law on which the final authority was the state supreme court. Based on such arguments, the Gore forces were preparing lawsuits seeking a court order blocking any appointment of electors by the Florida legislature. There was talk of a court order prohibiting the Florida legislators from meeting to make the appointments, or barring any legislatively appointed electors from voting at the Electoral College. Given that the Electoral College had to meet on December 18, this would have left but a few short days to litigate and resolve all appeals concerning the complex and never-before-adjudicated issue of whether state legislative appointment was appropriate when election contests failed to follow state legislative

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directions or make a timely choice conclusive on Congress.

Now, when matters are less frenzied, would be a better time to take a more considered look at the issue. Since neither the statute nor caselaw provides any direct answers, we must thus turn to legislative history and structure. Those who argue that the "failed to make a choice" language only applies when the election literally produces no result point to legislative history indicating Congress was concerned about circumstances in which state election law requires a majority and no candidate has received one. But there was other legislative history indicating that Congress was also concerned about instances in which floods or inclement weather prevented "any considerable number" of voters from reaching the polls, and that Congress wanted to confirm the power of the state's "legislature to authorize the continuance of the elections" past the congressionally prescribed election day. The latter legislative history makes clear that an election might "fail to make a choice" even though there had been an election with a result, at least when that result was distorted by flooding or bad weather. It also makes clear that, at least in that circumstance, Congress contemplated that the state legislature was the entity that would decide whether the election had failed to make a choice. Unfortunately, the legislative history does not indicate what else Congress thought might make an election fail to make a choice. But at a minimum, this legislative history seems to rebut the "no certifiable result" limit suggested by Ackerman and others. Further, one might reasonably conclude by analogy that the state legislature should have the power to decide when in its judgment other problems created distortions in the election result.

Certification by some state official does not eliminate concerns about whether a state's electoral votes will be counted.

Statutory and constitutional structure suggest the same result. A standard canon of statutory construction requires reading different statutory provisions together to make a coherent whole. While the limits on when a state legislature can say that an election failed to make a choice are unclear, it makes little sense to have one provision say that certain election results fail to make a choice conclusive on Congress, and then interpret another provision to have those same election results make a choice conclusive on the state legislature. This does not seem a plausible reading of a federal statute that was, after all, merely intended to regulate the *timing* of elections. Nor does certification by some state official eliminate concerns about whether a state's electoral votes will make a choice that will be counted. Rather, the federal statute provides that election results are not binding on Congress when it counts electoral votes unless any "controversy or contest concerning the appointment of all or any of the electors" has been finally determined in

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conformance with pre-existing law before the statutory deadline. A certification of appointment thus does not suffice to make a binding choice if it is challenged by a pending "contest." Moreover, even without this statute, a certified choice could well be invalidated as unconstitutional if it violated equal protection or the constitutional requirement that elections be resolved according to the state legislature's directions.

Further, another canon provides that statutes should be read to avoid constitutional doubts, and even without that canon it makes sense to read statutes consistent with the constitutional structure. As courts have repeatedly confirmed, the Constitution gives state legislatures plenary power to appoint electors. It would be in considerable tension with this power to interpret the statute to mean that Congress has said to the states, in effect, "We may not count your electoral votes, but there is absolutely nothing you can do about it." I doubt such a statute would be constitutionally valid at all, but there is certainly no reason to think Congress intended such a meaning. Moreover, the whole reason to insist that pre-existing law be followed is to comply with the constitutional requirement that electors be chosen in compliance with the state legislature's directions. Who better to decide whether its directions have been followed than the direction-giver itself?

In the 113 years since the Electoral Count Act was enacted, Gore was the first losing presidential candidate to contest an election.

In truth, the objection to state legislative appointment rests less on legal analysis than a policy objection that it would invite frequent and destabilizing legislative intervention that is undemocratic and illegitimate, turning us (as Ackerman charged) into a "Banana Republic." But neither the empirical claim about frequency nor the normative claim of illegitimacy seems well-founded.

In the 113 years since the Electoral Count Act was enacted, Gore was the first losing presidential candidate to contest an election at all. In 113 years, we had not had contests that lasted beyond the statutory deadline set by Congress for making the choice produced by those contests binding. In 113 years we had not had a state supreme court render an opinion that a unanimous U.S. Supreme Court thought (recall its first opinion) could reasonably be read to both circumscribe the state legislative power to direct the manner of appointments and raise the risk that Congress might deem the state supreme court to have effected a change in law that would deprive the election results of their conclusive binding effect. And in 113 years we had not had that same state supreme court render a second opinion that its own chief justice thought had "no foundation" in pre-existing state law, and that at least three (and probably five, judging from oral argument) justices of the U.S. Supreme Court thought failed to obey the con-

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stitutional requirement of following legislative directions. There seems little reason to think such an occasion will arise repeatedly. Indeed, it did not ultimately result in 2000 because the U.S. Supreme Court ended the contests in time and brought the results into conformance with pre-existing law.

The argument to the contrary seems based less on empirical information than on an assumption state legislatures will find it irresistible to try to overturn election results even when no legitimate controversy about that result exists. But legislatures will not want to overreach for the same reason that legislatures have not taken back the power to appoint generally: Legislatures are reviewable by the electorate. State legislators know that if they try to overturn the defined choice of the state's voters, they will quickly find themselves out of office. That is why the Florida legislature held back on making an appointment based only on the disputed claim that the Florida Supreme Court had deviated from pre-existing law, waiting until a time when the contests would have indisputably exceeded the statutory deadline.

We should want the best proxy for the electorate's choice, and that proxy is the institution most responsive to democratic will, the legislature.

On those rare occasions when the election process has failed to provide a timely or convincing result, it is perfectly legitimate for the problem to be resolved by the entity that both (a) was given clear constitutional authority over the matter; and (b) is most responsive to the will of the Florida electorate. This might seem inconsistent with the prior lesson that election officials and judges should be made nonpartisan, but it is not. Those officials and judges have the job of resolving election disputes in a timely fashion and in accord with pre-existing rules. For that task, one needs a neutral umpire. But when they fail in that task, or where there are no constitutionally valid pre-existing rules, then the democratic choice of the electorate will be unclear. At that point, we should want the best proxy for the electorate's choice, and that proxy is the institution most responsive to democratic will in any state, its legislature.

Note also that a state legislature need not proceed by direct appointment. It can cure election unclarity by prescribing any method of selecting electors it wants. In Florida, for example, the state legislature might have filled in the vacuum by ordering another election or directing that manual recounts be conducted according to a uniform standard, most likely the perforation standard that was the only pre-existing written standard.

Finally, we must realize that eliminating the state legislative role would not eliminate the concern about overreaching by government officials tempted to try to overturn the result in any close election. It would instead leave us with the concern that state judges might overreach in precisely the same

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way. The latter seems, if anything, more problematic because courts are not reviewable by the electorate. Thus, unlike legislators, if judges try to deny the electorate their democratic choice, there is no way for the electorate to punish them.

If the state legislature can decide when state judicial contests have left it with an election that failed to make a choice, there is the separate question of whether the U.S. Supreme Court or Congress can also make such a determination. At the time, I took the position that the matter should not be deemed justiciable. But I must admit I am no longer so sure. The experience made it clear that many legislators (both in Florida and Congress) were extremely reluctant to get involved in such a controversial dispute. Most did not want to touch it with a 10-foot pole, because they realized that, no matter what they did, they would alienate half their electorate. The bitter denunciations of the U.S. Supreme Court suggest they were right. There is thus sound reason to have some national entity whose job it is to resolve disputes others want to duck, and in our nation that entity is the U.S. Supreme Court. The prospect of review by that court, as well as by Congress when it counts the electoral votes, should also deter and police overreaching by state legislatures, thus ameliorating the concerns noted above.

I am thus inclined to the view that either the state legislature or the U.S. Supreme Court ought to be able to decide when an election has failed to make a choice. But even that leaves many questions open. Can the high court or Congress also review a state legislature decision on whether an election failed to make a choice, and if so, with what standard of review? The main lesson is that these issues should all be resolved now, when we are not driven by partisan concerns. If we as a nation decide state legislatures should have no role after election day, so be it — but we need to adopt clear constitutional or statutory rules in advance. Likewise, if we think state legislatures should have a role, the bounds and reviewability of that role need to be defined carefully beforehand.

LESSON VI. *Clarify certification authority.* Whether or not state legislative involvement is permitted, there is another issue that would have arisen had the 2000 election dispute continued, one also likely to arise someday in the future: What do we do when state officials render conflicting certifications?

The Electoral Count Act vests each state governor with the authority to certify the winner of the state's electoral votes, a certification that can break deadlocks when the two houses of Congress reach different conclusions about which of two electoral slates to count. Pursuant to that authority, Governor Jeb Bush had already certified electors for his brother George based on the election results before the judicial contest started. But if the Florida court had pushed through a recount that made Al Gore the winner, could it then order Governor Bush to certify the court's slate and decertify his original slate? It is not at all clear whether the state court has any author-

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ity to interfere with the certification authority that the federal statute vests in state governors. Nor was there any precedent on whether it is a proper exercise of such certification authority for the state governor to certify only election results provided by pre-existing election law and thus refuse to certify the result of a judicial contest that, in his view, was produced by changing the rules in midstream.

Further, if the state court entered such an order, what would happen if the governor refused to follow it? One wonders whether court marshals would be dispatched to fight their way through state troopers and seize the governor in order to jail him until he signed a document decertifying the Bush electors and certifying the Gore electors. Perhaps the governor would avoid seizure by taking a trip out of state and beyond the jurisdiction of the state court. Or perhaps the governor would just sit in jail and refuse to sign any change of certification until after the electoral votes were counted.

It seems best to have clearer rules set in advance to assure the next election does not turn on such drama. The Electoral Count Act, by giving effect to both gubernatorial certifications and judicial contests, exacerbates the problem. It seems fairly easy to instead structure power in a way less likely to provoke such controversies. If governors are the final arbiters, then their decisions should not be reviewable by courts. But if the courts are to be the final arbiters, then they should be given the power to make the certifications so that they need not act through governors. Given that the courts must already play a role in conducting contests, I am inclined to the latter view, and would thus give the state supreme court the power of certification. If the positions above were adopted, that certification would remain reviewable by the state legislature and the U.S. Supreme Court, but if they were rejected I would just leave the state court as both the final arbiter and certifier.

LESSON VII. *Clarify congressional counting rules.* Although the Electoral Count Act provides elaborate counting rules, they are unclear in many respects. Under those rules, a lot turns on whether Congress has one or two election returns from a state before it. If a state only has one return, then it must be counted unless both the House and Senate agree to sustain an objection to counting it. Thus, if they disagree, a single return must be counted. If Congress has two returns before it, the two houses acting in concert can choose which one to count, but if they disagree the gubernatorial certification decides which slate counts. However, the act nowhere specifies who can submit a valid election return. Presumably this is not an option open to any citizen with pen and paper. Can a state court submit something that counts as a return? Could a state secretary of state submit a return that conflicts with the governor's? The state legislature? The candidates themselves? Members of Congress? Rather than allow for multiple returns, I would as discussed above identify one entity with the power to render a certified return with any effect in Congress. But if multiple returns are permitted, some limits must be defined on who can render them.

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Another unresolved issue that loomed large in the 2000 election was what to do about conflicts of interest. Assuming a party-line vote, the only way the two houses of Congress could have disagreed would have been if Gore and Lieberman had cast the deciding votes for themselves. Having the election turn on a decision involving such a blatant conflict of interest would have been disastrous. But it has constitutional precedent. Back when the Constitution authorized the sitting vice president to personally decide all disputes about whether to count electoral votes, John Adams had no problem resolving every single dispute in his own favor in order to ensure his election as president. But times have changed, and today such a spectacle would surely undermine the legitimacy of election results. Moreover, if there were two slates before Congress, the spectacle of these candidates casting the deciding votes to adjudicate the dispute in their favor would have been trumped by the spectacle of the other candidate's brother casting the deciding certification. Now, when we don't know who will be in what position, is the time to adopt conflict-of-interest rules to preclude such unseemly results.

Finally, we need to rediscover an obscure distinction about whether a president needs a majority of the "counted" or "appointed" electors. Suppose a single Florida slate had reached Congress and got thrown out because the two houses of Congress sustained an objection to its validity, or (perhaps more likely) the slate was invalidated in court? This might have happened had the only slate of electors before Congress ended up being one chosen pursuant to the Florida court's manual recount, and had a federal court later (perhaps after December 18) invalidated that slate on grounds that the recount violated the equal protection clause. That would have left Congress with no valid slate of Florida electors to count. What would have happened then?

This worried me a lot at the time because I wanted to assure Florida was represented in the Electoral College, and nothing struck me as more perverse than the prospect that Florida might endure this whole fiasco and not get counted at all. It did not, however, seem to worry Democrats much. They figured that if, for any reason, Florida electors were not counted, Gore would win because he would have a majority of the rest of the Electoral College. The former solicitor general, Walter Dellinger, was advising Gore that he would win because the Constitution says you need a majority of the "appointed" electors. This was supported by precedent in cases where one state did not appoint electors and the president was selected based on having a majority of those who were appointed.

But here comes the obscure distinction. For while the exclusion of Florida electors would have given Gore a majority of the "counted" votes, he would not have had a majority of the "appointed" electors, and the constitutional text requires the latter. Further, deep within the recesses of the *Congressional Record* there was precedent indicating that in past cases where a state did appoint electors, and Congress sustained objections to the appointments and declined to count those electors, the president was required to have a majori-

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ty of all those appointed, not just of those electors Congress counted. So while there would have been an argument, the exclusion of Florida electors most likely would have resulted in a declaration that no one presidential candidate had a majority of the Electoral College. In such a case, the Constitution provides that the House of Representatives must select the new president — which meant Bush would have been elected anyway. More important, in the future we should understand that any president needs a majority not just of the counted electors but of all the appointed electors, which helpfully reduces the incentives to try to disqualify a state's only electoral slate.

THE ABOVE ARE just some of issues that arose or would have arisen had the U.S. Supreme Court not stepped in when it did. What still leaves me worried is just how many of these issues remain unresolved and likely to arise again in any serious close case. Only some of them surfaced during the 2000 election dispute. The rest remain hidden in the deep sea of legal obscurity, ready to bob up again in the next close election.

The time has come, I think, to focus less on recriminations about the past and more on making provisions for the future. Behind the veil of ignorance, we can resolve the open issues free of the partisan jockeying that results when we know who will benefit from any given resolution. I have suggested particular resolutions to these open issues, and you may disagree with many. But I hope we may all agree that on each issue we should choose some clear rule *in advance* and stick to it later no matter whom it turns out to favor. Better to pick the wrong rule but have some rule we all agree to follow, than to be making up the rules in the next bitter election dispute as we go along.

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Tokyo Confronts Terror

By DAVID LEHENY

IN THE AFTERMATH of the September 11 terror attacks on the United States, observers of Japanese politics were astonished to see the decisiveness with which Prime Minister Junichiro Koizumi acted to lend Japanese support to the U.S. war on terrorism. Using remarkably tough language, Koizumi called the attacks — in which 24 Japanese perished — "unforgivable" and followed with a seven-point emergency plan committing the Japanese military to support U.S. activities in Afghanistan. Most notably, he pushed forcefully for the dispatch of members of Japan's Self-Defense Forces, largely aboard high-tech Aegis cruisers, to the Indian Ocean to provide intelligence support. These actions stood in stark contrast to decades of Japanese pacifism and public ambivalence about the nation's mil-

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itary stance, and Koizumi certainly expected to meet serious resistance from dovish members of the Japanese government. Perhaps for this reason, the popular, self-styled maverick Koizumi seemed especially eager to push through the debate quickly so that Japan would avoid the kind of harsh international criticism that had attended the nation's tardiness in accepting any role in the Persian Gulf War. Although Japan ultimately made the largest financial contribution of any nation to that conflict, critics both at home and abroad referred derisively to the nation's "checkbook diplomacy" and its unwillingness to risk lives even to support collective security arrangements. Although some argued that Japan would never be a "normal" country, Koizumi's determination and the Japanese Diet's relatively speedy passage of his legislation together indicated that Japan had done the seemingly impossible.

But if the war on terrorism really is a new kind of war, experts on Japan may need to rethink what this apparent shift really means. Something is and has been happening in Japanese debates over international security, and we may yet witness a sea-change in the nation's policies toward the security of the Asia-Pacific region. What these recent moves will not do, however, is guarantee a change in Japanese thinking about terrorism and how to confront it. This, more than any specific Japanese failure to support American actions in Afghanistan, may genuinely endanger the alliance in ways that no one in Washington or Tokyo has addressed. If the U.S. war on terrorism expands to the Pacific Rim — as most analysts now believe it will — the United States will need and expect support that Japan will find difficult to provide. The nation is not prepared to engage in a genuine counterterrorist campaign, and its eagerness to support the United States may begin to backfire when it becomes clear what a war on terrorism means.

The shape of the security treaty

The story of the U.S.-Japan Security Treaty is familiar if peculiar. In the aftermath of World War II, the United States Occupation forces in Japan dedicated themselves to two initial tasks: the country's democratization and its pacification. Working with representatives of the Japanese government, Supreme Commander of Allied Forces in the Pacific Douglas MacArthur and his team crafted a new constitution reflecting both goals. Although this constitution, officially adopted in 1947, maintained some of the institutional features of the prewar Japanese government — especially its parliamentary system and a role for the emperor — it emphasized democratic rights and liberties and included a new legal commitment to pacifism. In Article IX of the constitution, Japan "forever renounces the threat or use of force as a means of settling international disputes" and further stipulates that "land, sea, and air forces . . . will never be maintained." In explicit language, the section concludes, "the right of bel-

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ligerency of the state will not be recognized." This, it seemed, would satisfy the American desire to avoid a future war with Japan.

Within a few short years, however, U.S. authorities — who occupied Japan until 1952 — added two more goals for the nation, both tied to the developing Cold War with the Soviet Union. On a general level, the U.S. government sought Japanese economic development to demonstrate to other Pacific nations that growth and wealth would accompany the democratic path rather than the communist path. Japan would thus serve an important propaganda role. With concerns over Soviet expansionism, however, American military authorities began to push for Japanese rearmament in order to provide the United States with an important ally in its Asian containment strategy. Some even hoped to enlist active Japanese military participation in the Korean War.

If the U.S. war on terrorism expands to the Pacific Rim, the United States will need and expect support that Japan will find difficult to provide.

Ironically, the first important defenders of Japan's pacifism were its conservatives, especially its formidable postwar prime minister, Shigeru Yoshida. Fearing that a rapid move toward military reengagement would undermine the country's fragile prospects for economic growth, Yoshida held firm against American demands for active Japanese participation in containment. Japan's leftist parties, especially the powerful Socialists and less powerful Communists, also endorsed pacifism, though for very different reasons. For them, Article IX served as both a repudiation of the country's rightist military platform in the 1930s and a limit on their country's willingness to support America's anti-communism in the Pacific. By the late 1950s, however, this area of left-right agreement had been replaced by a growing rift over how Japan could best ensure its own defense. Yoshida's successors in the newly formed Liberal Democratic Party (LDP) sensed that unless Japan solidified its security relationship with the United States, it would be vulnerable to potential enemies in the region, particularly China and the Soviet Union. They sought to extend a formal agreement that would allow America to continue to hold bases in Japan while Japan would remain under an American security umbrella. When Prime Minister Nobusuke Kishi staked his reputation on the quick ratification of the U.S.-Japan Security Treaty in 1960, he faced fierce opposition from the parties on the left, who saw it as an effort to implicate Japan in U.S. military adventures in Asia. Kishi succeeded, but only by arresting the Socialist Diet members who had physically blocked access to the legislative chambers in a last-ditch effort to prevent a vote. The protests in Tokyo surrounding this controversy were so severe that Kishi resigned his position.

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This would in many ways prove to be the defining issue in Japan's post-war politics, producing sharper party divisions than would welfare, labor, or other domestic policies. For nearly 40 years, the ruling LDP's hawks — not always a unified bloc — aimed for a larger military role for the nation but could not overcome the opposition of the parties of the left to constitutional revision. When Japan began to build genuine armed forces capable of playing at least some role in the defense of the Japanese islands, it had to name them the "Self-Defense Forces" in order to ensure that they were fully consistent with the constitution's rejection of belligerency and the right of war. At best, more aggressive LDP members had to settle for "reinterpretation" of the constitution, which was used incrementally to allow a growing, though still highly constrained, military role for the nation. The Japanese commitment to pacifism has been more complex than a simple left-right issue, with many believing that Japan's security is best served through political and economic rather than military engagement. Even after the recent collapse of the traditional opposition, like the Socialists, the LDP has needed to maintain coalitions with parties less inclined to support an enhanced role for the Japanese military. Moreover, Japan's Asian neighbors have generally been quick to criticize any LDP effort to expand the size or mission of the Self-Defense Forces, producing vitriol that has been a potent tool for the domestic opponents of rearmament.

Many believe that Japan's security is best served through political and economic rather than military engagement.

American requests for increased Japanese military commitments under the U.S.-Japan Security Treaty have not fallen on deaf ears, but they have sometimes seemed to reverberate off political issues linked only tangentially to questions of national defense. Although Japan's commitment of $13 billion to the allied effort in the Persian Gulf War dwarfed that of most other nations, its perceived dithering over constitutional issues left many convinced it was unprepared to accept a genuine political role in the post-Cold War world. A 1995 rape of a 12-year-old girl by three American servicemen in Okinawa inflamed Japanese public opinion against the U.S. forces, provoking anger in Okinawa, Tokyo, and Washington over the role of the United States in the region. When the Japanese and American governments renegotiated the guidelines surrounding the treaty in 1997, issues like these played a heavy role in extracting American guarantees of cooperation in the event of criminal behavior by its troops, and also Japanese promises of an expanded SDF role in the event of a crisis near Japan. These changes have thus far remained largely untested. Until September 11, 2001, however, American and Japanese concerns over the alliance remained focused on

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potential hot-spots in the Taiwan Straits and the Korean peninsula. The Japanese response to the attacks needs to be seen in the context of a more durable debate over Japan's partnership with America in the Pacific and may be a poor guide to the part Japan will play in a long-term counterterrorist coalition.

The counterterrorism bill

IT MIGHT SEEM NATURAL for a conservative Japanese politician to seize upon the September 11 attacks as an opportunity to expand Japan's security role. After all, here was Japan's closest ally — and in the minds of many Japanese, a trusted friend — badly wounded and calling immediately for help. Additionally, because Japanese national security was not directly threatened by the attack, policymakers on all sides could calmly debate the long term implications of Japan's response. If Japanese hawks were to have a chance to make Japan more "normal" by giving its armed forces the opportunity to participate in internationally sanctioned activities, this would likely be it.

Even so, it is hard to imagine any recent Japanese politician having been as bold as Koizumi. Armed with remarkable popularity and a reputation as a free-thinking maverick, perhaps only he could have immediately made the bold seven-point proposal his cabinet sent to the Diet for a vote. Koizumi's apparent willingness to stake his reputation on Japanese military participation has been, by Japanese standards, amazingly bold, even given the envy that many conservatives feel of Britain's immediate willingness to commit itself wholly to the U.S.-led war. The measures may be largely symbolic — after all, the lack of joint training makes it difficult to see how Japan's flagships, the Aegis cruisers, will contribute much to American intelligence-gathering efforts after they are dispatched to the Indian Ocean — but they undoubtedly reflect a genuine desire to make Japan a more reliable alliance partner: one that is willing to share risks with the Americans.

Although even the loosest interpretations of the Japanese constitution prohibit a direct combat role for Japanese soldiers in an offensive against the Taliban, Koizumi's cabinet moved as close to that position as it reasonably could. In discussions of its Bill to Support Counterterrorism (*Tero taisaku shijô hôan*), the cabinet stipulated that Japanese medical personnel should be allowed to set up field hospitals in Pakistan to respond to casualties should land attacks ensue. Nothing bottles up the Japanese Diet like defense debates, and even some Liberal Democratic Party members expressed concerns about the extent of the proposed reforms. Undaunted, however, Prime Minister Koizumi even remarked on October 10 that he did not see Diet approval as necessary for the dispatch of the Self-Defense Forces on his command. Aware that this would most likely provoke a constitutional crisis that his career might not survive, Koizumi will likely steer clear of this option.

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But with the memory of national embarrassment in the Persian Gulf War hanging over the Diet, politicians have struggled to ensure that Japan is not once again left outside the club of allies.

The frustrating pace of debate has resulted not from cowardice or weakness but from genuine questions over what the Japanese constitution permits. It should thus be compared not to the speed of American or British deployment but rather to the careful and lengthy deliberation of the U.S. Congress over anti-terrorism legislation. The Japanese Diet pored over the constitutional issues in the Koizumi counterterrorism bill just as the U.S. Congress repeatedly sent Attorney General John Ashcroft back to the drawing board to ensure that his counterterrorism bill would be consistent with congressional concerns about individual rights and liberties.

The difference, therefore, is not in the Japanese caution regarding a law that would dramatically alter the nation's constitutional orientation. It lies instead in the nature of the law. Whatever one thinks of the Ashcroft bill, it is legitimately a counterterrorism proposal, one that seeks to create a systematic government approach to dealing with this discrete phenomenon. The Japanese version is not real counterterrorism legislation, but rather an initiative to help U.S. action in this specific instance. This may not matter for Japan's participation in the military campaign in Afghanistan, but it spells trouble in the event of a lengthy, U.S.-led war on terrorism, especially one that spreads — as it probably will — to the Pacific basin. There, the United States will want and expect assistance that even Prime Minister Koizumi will be unable to extend.

Two rocks and a hard place

JAPAN WILL LIKELY not be able to provide significant assistance to the United States in a long war on terrorism because, unlike the United States, Japan has no real counterterrorism policy. No basic counterterrorism philosophy exists in Japan, and it has never been a real topic of conversation between the government and the governed. Even Japan's most renowned and articulate hawks have tended to bracket terrorism not as a security issue but rather as a "crisis management" problem. To the extent that the Japanese debate international security, they have focused largely on the constitutional issues involved in the U.S.-Japan alliance.

To be sure, these concerns bear on Japan's ability to create a counterterrorism strategy. Facing constitutional restrictions on the use of military force as well as admirable — even by American standards — guarantees of civil liberties, the Japanese National Defense Agency and National Police Agency have both encountered distinct problems in confronting terrorism. Although the police have Special Assault Teams that ostensibly resemble SWAT teams in the United States, their use has been highly circumscribed; the SDF have virtually no special forces capabilities to speak of, and therefore cannot pros-

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ecute any kind of offensive operations against terrorist groups. The National Police Agency used to have a counterterrorism division, which focused largely on the threat from the Japanese Red Army, but it was reduced to a smaller office in an organizational shift in the 1990s.

In the absence of an ability to "fight" terrorism meaningfully, Japan has in the past negotiated with terrorist organizations. In 1977, for example, the Japanese Red Army (JRA) hijacked a Japan Air Lines jet and landed it in Dacca, Bangladesh; the Japanese government paid a ransom of $6 million to secure the release of the hostages. Now facing international conventions and agreements that forbid negotiating with terrorists (on the logical though empirically unproven grounds that concessions to terrorists will produce more terrorism), Japan has adopted a "no concessions" principle. Japan's Diplomatic Blue Book (*Gaikô Seishô*) from 1996, however, leaves little doubt that the principle owes at least as much to "international responsibilities" as it does to a deeply held conviction that negotiations are improper. In fact, Japanese newspapers reported that, contra government denials, Japan paid a ransom of between $2 million and $5 million to the Islamic Movement of Uzbekistan (the IMU, linked closely with the Taliban and with al Qaeda) to win the release of four Japanese geologists taken hostage in Kyrgyzstan in 1999.

Even constrained by limits on the use of force and by international prohibitions on concessions, however, Japan might have adopted a policy of simply doing nothing. That is, the government could have concluded that terrorism represents at best a minor security threat and therefore should not force any change in other political priorities, security guarantees, or basic international principles. But this too is off the table because of a widespread belief that the government should do anything possible — including the payment of ransoms — to ensure the safety of Japanese hostages in terrorist crises. Newspaper polls show that the majority of Japanese believe that the government should make concessions to terrorists to win the release of hostages, though the percentage dropped from 67 percent during the Dacca crisis to a more recent 55 percent during a similar event at the residence of the Japanese ambassador to Peru in 1996-97. Understandably, Japanese policymakers believe that their primary responsibility is to protect Japanese overseas rather than to engage in a sustained campaign against terrorism. In fact, the bureau that calls itself in English the "Anti-Terrorism Bureau" in the Ministry of Foreign Affairs is, in Japanese, the "*Hôjin tokubetsu taisakushitsu*," or "Office of Special Measures for Our Citizens Overseas."

Japanese and foreign critics of the nation's admitted "case-by-case" approach to terrorism argue that its stance makes it particularly unable to deal with individual terrorist crises. During the 1996-97 siege in Peru by militants from the Tupac Amaru movement, the Japanese government's cautious voice seemed to add little to the quality of Peruvian and international efforts to end the standoff. Moreover, the sarin gas attack on the Tokyo subways almost certainly had a more pronounced effect on U.S. counterterror-

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ism policy than it did on Japan's. Instead of creating new institutions to cope with the possibility of terrorism using weapons of mass destruction, the National Police Agency, after years of careful deliberation, pushed through a law giving the government more powers to investigate and regulate "those organizations that have committed indiscriminate mass murder." Rather than adopt a strong stance against terrorism, the government gave itself more power to prosecute Aum Shinrikyo and other groups, provided that those groups have already carried out large-scale slaughter. Nothing in the debate over Koizumi's law to support America's war on terrorism suggests that there has been a radical rethinking of Japan's appropriate response to terrorist crises.

After Afghanistan, what?

THE IMPULSE TO support the United States in its war on terrorism thus arises from the criticism of Japan's tardiness in the Gulf War and from an eagerness of Japanese hawks to demonstrate the nation's support for its alliance partner. It does not, however, represent Japanese resolve against terrorism as a phenomenon that can be meaningfully confronted as part of an overall strategy. Although Japan might well provide symbolic and important practical support to the United States, advocates of Japanese commitments on both sides of the Pacific almost certainly see this as a harbinger of a more fruitful U.S.-Japan alliance. In doing so, they have missed the likely limits on Japanese cooperation in a bona fide U.S.-led war on terrorism and therefore will likely not recognize the political tensions that might serve to undermine the alliance.

The Japanese have no illusions about the risks to SDF members in the Afghani theater, particularly if they run field hospitals for American troops in Pakistan, as has been suggested. In fact, much of the Diet debate before the October 30 passage of the Koizumi bill focused on the conditions under which SDF members can fire their weapons to defend themselves or those under their care. But there has been little discussion in Japan of the possibility that Japanese civilians themselves will become targets if they are seen to be part of a broader counterterrorism effort. Should the conflict spread to Southeast Asia, Japan will find itself in a terrible dilemma.

Why would it spread to that region? U.S. policymakers have identified clear links between al Qaeda and Islamic movements in the region, including the Abu Sayyaf Group in the Philippines and the Islamic Defenders Front and Laskar Jihad in Indonesia. In the Philippines, of course, Islamic militants operate in a nation that is largely Roman Catholic, and their efforts are largely secessionist in nature. The relationship between Islam and the Indonesian government is more complex because the nation is predominantly Muslim and Islamic parties have been important players in Indonesian politics for decades. With the recent ouster of long-time dictator President

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Suharto, they are more relevant than ever, and President Megawati Sukarnoputri has to be concerned about taking steps that will rile conservative Muslim communities.

Terrorists thrive in communities that are broadly sympathetic to their goals, as well as in areas where state power is highly limited. Failed states like Afghanistan provide an exceptionally good environment for terrorist training, financing, and planning. If the United States successfully pushes militants out of Afghanistan as a result of its attacks, remaining al Qaeda operatives will likely gravitate toward established groups with whom they have had some links, especially in areas where state authorities have weak law enforcement and intelligence capabilities. American analysts have determined that the southern Philippines and Indonesia would be likely arenas for the planning and organization of further anti-American attacks. For this reason, security policymakers in Washington are already considering options for counterterrorist operations in Southeast Asia.

The United States will expect active Japanese participation, which will endanger the lives of Japanese.

This will mean that the United States will expect active Japanese participation; this participation will endanger the lives of Japanese throughout the region and perhaps at home as well. SDF troops in Pakistan would be close enough to the front line to take fire, but as everyone in the American counterterrorism community recognizes, there really are no borders in terrorism. To be sure, the U.S. will be the prime target, but no one who has traveled extensively in Southeast Asia can fail to be impressed by anti-Japanese sentiment born both of economic resentment and of anger over Japan's wartime behavior. Should Japan be clearly and publicly allied with the American effort, Japanese civilians in these nations will face a new and threatening environment. Especially given the predilection of some groups toward attacking "soft targets," lightly guarded Japanese diplomatic installations and private firms would likely become tempting targets of opportunity.

Nothing in Japan's counterterrorism policies or the government's dialogue with citizens has prepared Japanese for this possibility. Right now, the only risks under serious discussion are the nation's constitutional virtues, its relations with skeptical Asian neighbors, its links to the United States, and the possible danger to Japanese troops. It is possible that terrorist attacks on Japanese would increase the enthusiasm for a war on terrorism, but history suggests otherwise. In the aftermath of the Lima crisis, the Japanese government tightened security on some installations but otherwise showed little increased interest in terrorism. And after the Kyrgyzstan attack, the Japanese government continued its aid programs to the Ferghana Valley — but hired foreign workers to replace the Japanese on the ground. In fact, the clear role

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of the Japanese government has been to protect Japanese, usually by trying to keep them out of harm's way. Which, in this case, might mean "out of the war on terrorism."

Even if Japanese are not made immediate targets, the spread of U.S. operations to Southeast Asia would imperil Japan's own diplomatic initiatives in these countries, especially Indonesia. Japan has thrived on its economic relations with other states, especially those in East and Southeast Asia; it will understandably be reluctant to jeopardize these to adhere to the U.S. line on terrorism in the region. Without a guiding set of principles or policies, Japan's few counterterrorism specialists are no match for the entrenched corps of regional affairs, economic policy, and diplomatic bureaucrats who guide most of the nation's foreign policies. How many "economic cooperation" initiatives would be sacrificed in Indonesia if the Japanese government were to provide support to the United States there? If the Indonesian government were to reject U.S. military operations, would the Japanese government remain silent on covert operations launched from American bases in Okinawa? How far would the SDF go in supporting U.S. troops in Southeast Asia?

No one yet knows the answers to these questions. Alarmingly, no one seems to have asked. Instead, remembering Japan's late and limited role in the Persian Gulf War, most American analysts of Japanese security politics seem heartened by the alacrity with which Koizumi made his seven-point proposal. To be sure, a precedent set now would make more likely Japanese support of America's overall security profile in the Pacific rim. But it might be less important if the Bush administration proves to be truly committed to a global war on terrorism. If Japan seems not to cooperate in, and even to hinder, America's progress in the war on terrorism, American public support for U.S. commitments to the defense of Japan will face its most serious challenge since the occupation.

A difficult new choice

JAPAN'S FOREIGN POLICY and security leaders thus face a difficult choice, and not the conventional one of pacifism vs. military engagement. The American war on terrorism involves great dangers and genuinely unforeseeable conclusions. Most of the terrorist organizations that interest U.S. policymakers have shown little interest in Japan, though this will likely change if Japan becomes more deeply involved. Clearly, Japan's interests would be served by maintaining a strong alliance with the United States, but it takes a leap of faith to conclude that Japan will be safer even in the long term from terrorism if it joins the American-led campaign in earnest.

If Japanese leaders want to make their nation a more comprehensive partner of the United States in the war on terrorism, they will need to take differ-

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ent, more nuanced steps than they have thus far. Rather than expending all political capital on open-ended support for a large-scale American offensive in southwestern Asia, the prime minister should move to re-establish a terrorism division in the National Police Agency and should also substantially beef up the size and profile of the Special Measures office in the Ministry of Foreign Affairs, where it is institutionally powerless against regional bureaus. They should also enlarge the intelligence capabilities of the Defense Agency, giving it a mandate broader than its current focus primarily on China and North Korea.

Even more important, Japanese leaders will need to discuss terrorism to ensure that citizens understand why it is a threat and why the government will adhere to fixed, transparent standards regarding its handling. If the Japanese public are behind — they clearly are not now — a genuine war on terrorism that will likely involve dangers to civilians, police, and members of the armed forces alike, Japan can provide more important guarantees to the United States regarding long-term support. In the absence of any public debate on what terrorism is and why it presents a threat, Japanese cooperation in the war on terrorism will remain doubtful.

These recommendations presuppose that Japan's interests are and should be firmly aligned with those of the United States. But Japanese policymakers may want to bear in mind that for all the expertise, talent, and institutional support involved in America's counterterrorism efforts, the U.S. government does not fundamentally know how to stop terrorism. To be sure, the U.S. government has successfully isolated the Taliban, has won the extradition of terrorist suspects for trial in the United States, and may have destroyed individual terrorist groups. These accomplishments, however, are hardly the same as ensuring that Americans are safe. It seems logical, of course, that a stern approach to terrorism that emphasizes military and law enforcement capabilities might be more useful than concessions or other, more conciliatory, approaches. But the evidence is mixed, as we simply do not know precisely the best method for reducing the overall threat of terrorism. It is possible, after all, that Japanese will be safer if the government tries to fly under the radar of terrorist groups, dealing with incidents on its familiar "case-by-case" basis, than if it cooperates with the United States. The risks to the alliance would, however, be profound.

This is not to argue that Japan should necessarily continue its ambivalent approach to international terrorism. Perhaps a genuine war, built at least in part on military engagement, is necessary, and the Bush administration's program might be effective. Moreover, maintaining American faith in the U.S.-Japan alliance — so crucial to Japan's security — is almost certainly worth some risks. But risks there are, and the Japanese government will need to consider what real cooperation with the United States in this conflict will look like. For decades, Japanese politicians have debated what it means for the Japanese constitution to have Japanese troops on or near the front lines. Now they will have to consider how their nation will enter a war without fronts, in which all civilians are themselves part of the campaign.

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Medicine's Race Problem

By SALLY SATEL

ON JUNE 26, 2000, the White House announced to the world that the human genome had been sequenced (with the final, polished version due perhaps by 2002). Though the precise functions of all our genes have yet to be deciphered — Nobel laureate David Baltimore foresees a "century of work ahead of us" — it is clear that we are on the threshold of knowledge that could revolutionize the way we predict, diagnose, and treat disease.

The momentous discovery was lauded for something else as well: It supposedly laid to rest the idea that race is a biological category. "Researchers have unanimously declared there is only one race — the human race," said the *New York Times* in an article headlined "Do Races Differ? Not Really, DNA Shows." Much heralded was the finding that 99.9 percent of the human genome is the same in everyone regardless of race. "The standard labels used to distinguish people by 'race' have little or no biological meaning," claimed the *Times*. Said Stephen Jay Gould, evolutionary biologist at Harvard: "The social meaning [of race] may finally liberate us from [that] simplistic and harmful idea."

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That point has found its way into the rhetoric of politicians. As former President Clinton has said, "in genetic terms all human beings, regardless of race, are more than 99.9 percent the same. . . . The most important fact of life on this earth is our common human ancestry." We were reminded by former GOP vice presidential candidate Jack Kemp that "the human genome project shows there is no genetic way to tell races apart. For scientific purposes, race doesn't exist," he averred. In Hollywood, too, notice was taken. When a television talk show host asked actor Rob Reiner about the sparring his character did with Archie Bunker on the long-running television program "All in the Family," Reiner (aka "Meathead") explained that Archie's signature bigotry stemmed from ignorance. "We are all the same, though," Reiner said, "the human genome project taught us that." The human genome project, in the view of many, helped pound the final coffin nail in place: Race was at long last dead.

It is noble, of course, to celebrate spiritual kinship within the family of man, and now even to suggest that race has biological meaning, it seems, can be something close to professional suicide. The mere mention of race and biology together sends many physicians and scientists scrambling to protest (too much) against a possible connection. The facts, however, paint a more complex picture, one with clinical implications: race does have biological dimensions, and if we regard it solely as a social construct, we may forfeit opportunities to enlarge our medical treatment repertoire.

Wanting it both ways

THE SENTIMENTS FUELING the impulse to regard race as an arbitrary biological fiction should be taken seriously, especially given the shameful history of race and biology. People properly shudder at the memory of the Tuskegee Syphilis Experiment, in which hundreds of black sharecroppers were never told they had the disease nor offered penicillin for its treatment. Many now worry that genetic determinism might be used as the sole explanation for social differences between races or, worse, as justification for new eugenics movements and programs of ethnic cleansing.

Nevertheless, the corrective is not obfuscation or outright censorship of inquiry. It is a clear-eyed understanding of the intertwining of race and biology. Denying the relationship flies in the face of clinical reality, and pretending that we are all at equal risk for health problems carries its own dangers.

We were reminded last May of the controversy about the role of race in biomedical research when the *New England Journal of Medicine* (*NEJM*) published two papers describing the responses of black and white patients to medications used to treat heart disease. The researchers sought to compare racial groups in light of the well-documented observation that, on average, African Americans with high blood pressure and other cardiovascular conditions do not fare as well as whites when given the same medications.

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Reaction from the race-is-a-social-artifact school was swift.

"There is a lot of scientific racism that's accepted as normal, [but] it's not valid science," Richard S. Cooper of Loyola University Medical School told the *Chronicle of Higher Education*. Even J. Craig Venter, the geneticist and entrepreneur whose company played a key role in mapping the human genome, expressed his dismay to the *New York Times*: "it is disturbing to see reputable scientists and physicians even categorizing things in terms of race . . . there is no basis in the genetic code for race."

Discrediting the idea of racial distinctiveness is a common strategy. "It has become clear that human populations are not unambiguous, clearly demarcated, biologically defined groups," states the American Anthropological Association, for example. Well enough, but no serious scholar believes that races or ethnic groups (blacks, Eskimos, Asians, whites) represent genetically discrete, static classifications. To claim as much is to set up a straw man. As early as 1775, Johann Friedrich Blumenbach, who originated the concept of "race," remarked that "innumerable varieties of mankind run into each other by insensible degrees." Considered the father of physical anthropology, Blumenbach wrote the landmark treatise "On The Natural Variety of Mankind" (1795) in which he introduced five races (Caucasian, Asiatic, American, Mongolian, and Malay) and saw them as part of a single species, *Homo sapiens*. Indeed, two centuries later the human genome project confirmed what Blumenbach had first articulated. Robert S. Schwartz, a member of *NEJM*'s own editorial staff, attacked the straw man in an editorial response entitled "Racial Profiling in Medical Research." He insisted that, genetically speaking, "humans — all humans — are so similar that to try to divide them up into neat little categories and label them yellow race, white race, black race, and so on, is insupportable." Instead of investigating biological variables associated with race, Schwartz wrote, "physicians everywhere must teach the immorality of racial discrimination in clinical practice."

Race does have biological dimensions, and if we regard it solely as a social construct, we may forfeit treatment opportunities.

Schwartz wants it both ways. On one hand he warns against the "dangers inherent in practicing race-based medicine," yet on the other he eagerly encourages the analysis of race as a variable in "research to root out social injustice in medical practice." Schwartz need not worry. The Department of Health and Human Services as well as numerous non-profits, such as the MacArthur and Robert Wood Johnson Foundations, are dedicating vast resources to investigating social causes of illness in minorities. Many of these causes are valid, among them culture-based habits of diet and lifestyle; atti-

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tudes about health and health care; and access to care. But other presumed causes, such as bias within the health care system or the impact of social hierarchy and income inequality on health, are susceptible to politicization. Not surprisingly, the quality of research targeting those factors is often dubious.

Despite the rhetoric about the bankruptcy of the race concept, it is notable that the federal government is pouring millions of dollars into studying racial differences in course-of-disease and in treatment response. In 1993 Congress passed and President Clinton signed a law requiring researchers whose projects are funded by the National Institutes of Health to include subjects of all major races. There are reasonable criticisms of the law as policy — for example, the expense entailed in amassing large enough study samples for valid statistical comparison — but there can be little question that one of its purposes was to illuminate potential differences in treatment response that are mediated by physiology, i.e., racial differences.

The practical clinical implications are real. For example, when doctors transplant kidneys or bone marrow, they have more difficulty finding a tissue match for African Americans because there are more possible antigen (protein) combinations on their cell surfaces than on the cells of white patients; some of those antigens are very rare in the population at large. In treating pain, doctors often give low doses of narcotics to Asian patients, given their tendency toward an acute sensitivity to the effects of those drugs. Or consider the higher mortality rate from breast cancer among African-American women. While obstacles to timely diagnosis and treatment may partly account for this difference, it cannot tell the entire story as African-American women have a 50 percent higher incidence of breast cancer before the age of 35, a greater likelihood of developing more aggressive tumors as well as the highest incidence of pre-menopausal cancer.

Medicine, like society as a whole, seems torn about how to regard race. But a sober look at the relationship between race and genes can clarify the purpose and promise of research based on the notion that vulnerabilities to certain diseases and response to treatment can sometimes vary by race. "Race" is an approximate category, to be sure, but one with undeniable biological significance.

Small differences loom large

ONE OF THE MOST heralded (and misunderstood) findings to emerge from the human genome project is that fact about the 99.9 percent genetic similarity between races. This is technically true. Then again, we share a very high percentage of our genetic makeup, about 98 percent, with chimpanzees, our closest primate relative, and we are clearly distinct from mice despite the fact that only 300 of the 40,000 genes in man appear to have no counterpart in the mouse. The resemblances extend

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into the plant kingdom, where mustard weed has 26,000 genes, about two thirds of the gene count of human beings. Even a one-celled organism — the yeast — has about 6,200 genes. No surprise is it, then, that there is quite enough room within that 0.1 percent of variation among humans for the existence of gene patterns, or frequencies, that cluster by group, or race.

The best way to appreciate how even tiny DNA changes can translate into big differences is to consider the single-gene diseases. Within a single human gene there are hundreds to thousands of irreducible building blocks called nucleotides. The order of a gene's nucleotides forms the recipe for a protein, each gene coding for a unique protein — for example, an enzyme that breaks down a target substance or forms a structural element of a cell or tissue.

We also share about 98 percent of our genetic make-up with chimpanzees.

These single-gene (monogenic) diseases — among them Tay Sachs, muscular dystrophy, and cystic fibrosis — show that alteration of a handful of nucleotides, or sometimes only a single one, can have profound physiological effects. In cystic fibrosis, the critical abnormality is in the protein that helps move ions and fluid along their normal travel routes in and out of cells. As a result, that movement is disrupted and the patient's organs become packed with thick mucus. Death before adulthood is common. The most common specific defect that causes cystic fibrosis? Three out of the 250,000 nucleotides of the gene that codes for the protein are missing: three out of thousands of nucleotides in that gene and out of three billion in the entire genome.

Single-gene diseases are relatively rare, accounting for about 2 percent of all diseases that afflict humans (most human conditions, such as heart disease, diabetes, or high blood pressure are likely caused by several variant genes acting together) but they clearly illustrate how very small genetic variations can translate into palpable differences, sometimes between individuals and sometimes between racial or ethnic groups. This is not to say that every nucleotide variation spells disaster. Often it means that the enzyme produced by the gene will be less efficient at its job, for example, in breaking down other chemicals that are made by the body or are taken into the body, like medications. The clinical manifestations of this can vary, ranging from nonexistent to subtle to striking.

Consider the Canadian tuberculosis epidemic of the 1950s. All TB patients received the standard treatment: many months of triple-drug therapy, including a medication called isoniazid. It turned out that a sizeable fraction of Canadian Eskimos had a variant form of a liver enzyme that metabolized isoniazid so quickly that the drug was effectively used up before it could attack the tuberculosis bacteria. Many of the Eskimos metabolized isoniazid much faster than the general population and thus fared poorly

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under what was an inadvertent two-drug regimen. Many succumbed to TB and the partly treated, still-living tuberculosis bacteria themselves mutated into drug-resistant forms that went on to infect others in the general Canadian population. The significance of these results is that to ignore race under such circumstances is practically akin to withholding treatment.

The investigation of medication effects in black and white patients was published in that recent *NEJM* issue. The patients under study all had chronic heart failure, a condition in which the heart muscle is weak and cannot pump blood efficiently. The researchers were interested in improving treatment for heart failure and noted that while a class of medication called ACE-inhibitors was generally considered a standard treatment for heart failure, accumulating evidence suggested that black patients, on average, did not derive as much benefit as whites. The study, in which black and white patients were randomized to treatment with an ACE-inhibitor drug or placebo, found that black and white patients taking placebo fared no worse than black patients taking an ACE-inhibitor with regard to blood pressure control and hospitalization for worsening heart failure.

One group of scientists has produced a medication specifically for African-American patients.

How to explain the results? The working theory revolves around a molecule called nitric oxide (NO), a gas that is normally produced by the cells that line our blood vessels. The NO gas rapidly spreads through the lining cells to the underlying muscle cells that surround blood vessels and regulate their constriction, an important dynamic in the control of blood pressure. Specifically, NO dampens contraction of the muscle cells, thus relaxing the vessels and lowering blood pressure. For unexplained reasons, black individuals are more likely to have nitric oxide insufficiency arising from either reduced production by the lining cells, enhanced inactivation, or both. Since ACE-inhibitor drugs appear to exert their blood pressure-lowering effect by interacting with NO, patients with deficits (innate or acquired) will not have as vigorous a response to the medication as those with higher NO levels.

To be sure, not all black patients have low nitric oxide activity. But it is helpful for physicians to be aware of the likelihood, so that they can make better judgments about risk-benefit ratios of particular treatments. One group of scientists has taken the relationship between race and nitric oxide to its logical end: producing a medication specifically for African-American patients. Jay N. Cohn, a professor of medicine at the University of Minnesota School of Medicine, holds the patent on BiDil, a combination diuretic and vessel dilator that is believed to replenish stores of NO. Last March, the Food and Drug Administration authorized the testing of BiDil and the clinical trials will enroll only black patients with heart failure. The

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Association of Black Cardiologists is helping recruit patients for the trials in the hope that doctors will be able to offer another treatment option for black patients. Their rationale is obvious: Black patients suffer heart failure at twice the rate of whites, and those afflicted are twice as likely to die. "It is in the name of science that we participate," says B. Waine Kong, of the association. The Congressional Black Caucus voiced support as well.

That BiDil's therapeutic strategy relies on a crude predictor of drug response (race) is something its developers readily acknowledge. Some critics, however, are offended by the very idea. "I challenge any member of our species to show where this kind of analysis has come up with something useful," Richard Cooper says. It has "no proven value" according to Schwartz, who hopes the elucidation of the human genome "will force an end to medical research that is arbitrarily based on race." Arbitrary? No proven value? These protestations crumble in the face of one simple fact: In large-scale clinical trials BiDil provided a selective benefit to black patients with heart failure; white patients who took the drug had the same results as those on placebo.

Much as it might offend — "Skin Deep: Shouldn't a Pill Be Colorblind?" asks the headline in the *New York Times* coverage of BiDil — skin color can sometimes be a surrogate for genetic differences that influence disease and the response to treatment. "Right now we have only skin color to identify populations," Cohn explained, "you'd have to blindfold yourself to say we are not going to pay attention to obvious differences."

Pharmacogenomics

THE ULTIMATE PURPOSE of work like Cohn's and other biological realists is to identify factors that may be genetic in origin. First, researchers hope that identifying particular genetic markers within certain ethnic groups will yield insight into the genetic basis of disease and reveal why certain conditions are more prevalent in some groups. Second, the ultimate goal is to understand differences between *individuals*, not between races or ethnic groups. Pharmacologists talk enthusiastically of one day being able to customize medications to individuals based on their unique genetic profiles. While there is debate about the technical and commercial feasibility of this practice (dubbed pharmacogenomics), the ability to map an individual's genome efficiently is at least several decades away.

Until then, researchers can reasonably use race or ethnicity to direct them in identifying genetic markers that may predispose some patients to greater vulnerability to illness or to less robust treatment response. Dr. Cohn's work makes a persuasive case that there is a clinical imperative to do so. Knowing that a particular illness is more likely to afflict a certain group allows scientists to focus their attention on specific defects or the constellation of abnormalities that produce it. As far as treatment is concerned, "racial differences

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in response to drugs should alert physicians to the important underlying genetic determinants of drug response," explains Alastair J.J. Wood, a pharmacologist at the Vanderbilt University School of Medicine. And why not? The entities we call "racial groups" essentially represent individuals united by a common descent — a huge extended family, as evolutionary biologists like to say. Blacks, for example, are a racial group defined by their possessing some degree of recent African ancestry (recent because, after all, everyone of us is out of Africa, the origin of *Homo sapiens*).

In a sense, then, the purpose of examining race as a variable in biological research is to be able to transcend the use of race, to perfect a bottom-up kind of genetic analysis that is routinely performed in other arenas, such as forensic medicine. Its specialists can use tissue, hair, blood, or other fluids remaining at a crime scene to look for "population-specific genetic markers" in the DNA to help determine the race or ethnicity of a victim or suspect from his traces. Anthropologists can calculate, with startling precision, a person's ancestry from different parts of the world by analyzing the DNA from a few cells. Renowned population geneticist Luigi Luca Cavalli-Sforza has reconstructed human migration out of Africa within and between the continents in his landmark book, *The History and Geography of Human Genes* (Princeton, 1994).

The goal is to understand differences between individuals, not between races.

Forensic and anthropological uses of genetic analysis show that race is not built on any particular trait. It is built on ancestry. Every present-day population harbors clues to its ancient roots. Members of a group would have more genes in common than members of the population at large. This is called, not so mysteriously, population genetics — the field of inquiry that examines changes in frequencies of particular genes within a population over time. And its legitimacy actually seems to be a point of agreement for both social constructionists and those who comfortably examine race in biomedical research.

Indeed, members of the "social construct" camp do not deny the basic observation that certain illnesses cluster by race. They recognize that among Americans, sickle cell anemia, for example, is most common among African Americans. They are quick to point out, however, that other people whose ancestors come from the Mediterranean region are at risk as well, albeit less so than those of African heritage. This doesn't change the fact that African-American descendants are vulnerable, but it seems to reduce the anxiety that blacks alone will be saddled in the public imagination as having a "defective" trait. (Ironically, depending upon the environment, the sickle cell condition — another condition in which a single nucleotide has undergone mutation — is less a defect than it is a genetic protection against malaria. When

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the malaria protozoan infects the red blood cell, the sickle shape makes the cell collapse and die, preventing the multiplication of the protozoan.)

The rancor surrounding the use of race as a variable in biomedical research was captured by the *Chronicle of Higher Education* in its exploration of the question: "How much emphasis should doctors and biomedical researchers place on the role of race as they evaluate health problems and potential treatments?" In "Shades of Doubt and Fears of Bias in the Doctor's Office," Jay S. Kaufman, an epidemiologist at the University of North Carolina at Chapel Hill, registers dismay over the study of race in biomedical research. "We live in a society in which race is the primary axis of social discrimination," he told the reporter. Referring to the *New England Journal of Medicine* articles, he opined, "An article that shows that there is some scientific foundation for the distinction is very comforting to people." As far as doctors' behavior is concerned, Kaufman says that these types of studies engender needless focus on race. "A patient walks in the room, the first thing the physician notices is, 'Oh, it's a black person' . . . a [journal] article says, 'oh, yeah, that's good, you should notice that, it makes a big difference.' "

The entities we call "racial groups" essentially represent individuals united by a common descent.

Indeed, government-funded research in health is becoming extremely race conscious, but not in the way Kaufman criticizes. Efforts to uncover the social explanations for differences in health status between minorities and the general population are blossoming, including millions spent on — in the words of *NEJM*'s Schwartz — "research to root out social injustice in medicine." This is a popular theme. The U.S. Commission on Civil Rights, in its 1999 annual report to Congress and the White House, concluded that "racism continues to infect our health care system." The commission's assessment derived mainly from the fact that health outcomes were often poorer in minorities, especially African Americans. As is increasingly common, the commission inferred that bias in the system must be the underlying reason accounting for disparate health.

In academia, combating inequities has become a mission. According to Harvey V. Fineberg, former dean of the Harvard School of Public Health, "a school of public health is like a school of justice." In 1996 the theme of the American Public Health Association's annual meeting was "Empowering the Disadvantaged: Social Justice in Public Health." One of the association's proposed solutions is affirmative action in medical schools, believing as it does that "institutional racism has been an important contributor to racial disparities in health and economic status as well as a barrier to their elimination." The Centers for Disease Control and the National Institutes of Health give grants and sponsor workshops to assess the impact of "racism," "classism," "powerlessness," and income inequality on health. Unfortunately,

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politics — not rigorous methodology — often fuels these investigative forays.

Not all efforts, thankfully, are grounded in victim politics. Many simply want to close the health disparity gap in the service of improving the nation's health. Every 10 years, the Department of Health and Human Services announces its health agenda; this year the blueprint is called Healthy People 2010 and is devoted to the "elimination of racial and ethnic health disparities." Narrowing the gap between health outcomes in minorities and whites is a worthwhile effort. HHS is targeting six important areas for improvement: infant mortality, cancer screening and management, cardiovascular disease, diabetes, HIV infection/AIDS, and child and adult immunizations. Last year, Congress allocated over $100 million to fund a new agency within NIH called the Center for Minority Health and Health Disparities.

It should come as little surprise that the anxieties plaguing critics tend to follow the ideological fault lines of the culture war. Take the notion of inborn differences. If we acknowledge that risk for particular illnesses or physiological features clusters by race or ethnicity, the critics worry, we are essentially erecting the scaffolding for social hierarchies. As University of Pennsylvania bioethicist Arthur Caplan put it, there is worry that the human genome would be used "to bolster racial and ethnic prejudice and other exclusivity groupings they believe in."

Also distressing to critics is the notion that intrinsic traits of individuals or groups will lead to unequal outcomes, in this case, in health status. The irony here, of course, is that the very purpose of researching race-related differences in physiology is to develop treatments that can help level the clinical playing field by improving health in people who are at risk. Critics also fret that by paying attention to patterns of biological differences, practitioners and researchers will underestimate or even ignore outright the considerable contributions that environment makes to health. This is an unlikely development given the vast interest, generous research funding, and public prevention campaigns devoted to the role of nonbiological factors such as diet, stress, environmental toxins, attitudes about health care, and access to it.

To acknowledge a biological dimension to race is to risk inflammatory and often groundless accusations of racism. The public's health is best served by a balanced portfolio that employs race as a variable in both biomedical and social health research. In the debate over the proper place of race in scientific inquiry, the meaning of the human genome project has become a powerful Rorschach test. Deliberately ignoring race in biomedical research can lead to inferior or improper treatment. The fact of a tainted history of race and medicine need not prefigure irresponsible activity now or in the future.

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When Politics Is A Laughing Matter

By ALEXANDER ROSE

WHEN IT IS NOT at war, democracy is a comical political system. To many of history's greatest minds, the very idea of allowing the rabble to choose its leaders, who then pander to its wishes, was inherently ridiculous. Compared to the simple elegance of despotism, the stability of baronial rule, or the divinely ordained reign of a monarch, democracy is a messy, muddled method of government.

We, the people, know this. Because our leaders emerge from within our own ranks, we feel entitled to insult them mercilessly, especially when they get too big for their boots. And the worst insult any elected politician may suffer is being voted out of office. No matter how much dread he instills or respect he may inspire, his people do not love him.

In times of peace, we recognize that our leaders are not only no better than we, but in many cases, worse. We, at least, mind our own business and get on with making an honest living; they, on the other hand, willingly thrust themselves into the maelstrom of politics for what purpose? Power? Glory? Money? Fame? We suspect, perhaps wrongly, that whatever the reason, it must be nefarious. Some politicians may be motivated by a Great Vision, others by Moral Fervor, and still others by Fierce Ambition, but one verity remains: They want to clamber to the top of the greasy pole in order to run things and boss other people around.

Given that the system is so endearingly ludicrous, the antics of our elected

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representatives make entertaining viewing. Some commentators rue the disrespect with which politicians are sometimes treated. In turn, they can be accused of not only taking politicians altogether too seriously, but thinking ahistorically.

THE INVENTORS OF modern democratic politics, the British, occupied a great deal of their time mocking its practitioners. The more rambustious and vibrant the politics, the more malicious the mockery. Whereas parliamentarians had once been lumped together as "the Commons," the eighteenth century witnessed the emergence of Tory and Whig political parties possessing distinct platforms. This was a development, coinciding with the explosion in political pamphleteering and newspapers, that bitterly divided the London coffee houses (Jonathan Swift, misanthropic author of the political satire *Gulliver's Travels*, was a particularly vicious Tory hack) and unleashed an extraordinary partisan rancor.

Turn to a typical eighteenth-century caricature and, even in our crass age, one is horrified by the sheer delight artists took in portraying the great politicians defecating, urinating, fornicating, being disemboweled, and suffering from flatulence. Take, for instance, the famous print of the Whiggish Sir Robert Walpole — who served for more than 20 years as Britain's first prime minister and to whom the phrase "every man has his price" has been, no doubt inaccurately yet justifiably, attributed — straddling the gate of government. The cartoon is entitled "Idol-Worship, or The Way to Preferment" and depicts a servile place-seeker kissing Walpole's enormous, naked buttocks. By comparison, Doonesbury's "waffle" and "feather" jibes seem thin gruel indeed.

Later artists and writers would downplay the scatology and instead focus on grotesquely exaggerating the personal appearance and besmirching the characters of politicians. By the late nineteenth century, when suffrage had bestowed the vote on most of the male population and parliamentary government was upheld as the epitome of Progress, middle-class publications such as *Punch* drew their claws. Disraeli, Salisbury, and Gladstone were portrayed rather harmlessly as (respectively) greasily unctuous, self-satisfied, and eye-glazingly boring.

But the British were always fond of their idiosyncratic little democracy, even as they poked fun at its ridiculousness. As Sir Joseph recounts in Gilbert and Sullivan's *HMS Pinafore*:

> I grew so rich that I was sent
> By a pocket borough into Parliament.
> I always voted at my party's call,
> And I never thought of thinking for myself at all.
> I thought so little, they rewarded me
> By making me the Ruler of the Queen's Navee!

Today, ad hominem attacks gleefully continue, though with claws once

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again extended. For instance, on the satirical British television program, *Spitting Image*, Mrs. Thatcher's former minister of education and home secretary, Kenneth Baker, was depicted as a perspiring, whiny slug. (He appears to have exulted in the attention: He collects political caricatures.)

The point is, notwithstanding the vicissitudes of humor, the democratic tradition of ridiculing and teasing politicians enjoys a long and honorable heritage. London's Tate Gallery is currently advertising an exhibition devoted to the eighteenth-century caricaturist James Gillray with the line, "Don't Limit Yourself to Laughing at the Politicians of Today."

Following in the British tradition, American political jokes are mostly partisan jabs and tend to reduce politicians to an irreducible essence, a cliché, a buzzword. Thus, Nixon is incorrigibly shifty and sinister, Ford is an amiable bumbler, Carter is nice but out of his depth, Reagan is just dumb, Bush Senior is a cold WASP, Clinton is a sex maniac, Quayle is stupid, Gingrich is callous, Gore is a bore, and Hillary is a modern Lucrezia de Borgia. A strange admixture of Reagan, Quayle, and Ford, Bush Junior was until September 11 depicted as a fool prone to malapropisms.

A mid-90s joke had Bill Clinton, Newt Gingrich, and Dan Quayle riding in a car in Kansas. A tornado suddenly appears and hurls the car into the magical land of Oz. Gingrich says, "Well, I'm off to see the Wizard and get myself a heart." Quayle adds, "I'll go with you and get a brain." And a leering Clinton asks, "Where's Dorothy?"

A not altogether hilarious joke does, however, nicely summarize popular images of the presidents. The last six occupants of the White House are stranded on a listing Titanic. Ford says, "Oh, no, what do we do?"; Bush Senior sternly orders, "Man the lifeboats!"; Reagan wakes up, "Huh? What? Lifeboats?"; Carter decently suggests "Women first"; Nixon growls, "Screw the women"; and, of course, Clinton chimes in hopefully, "Do we have time?"[1]

A telling Hillary Clinton joke has the then-first lady and the president driving along in scenic Arkansas. When they pull over for gas, Clinton notices his wife has jumped out of the car, bounded over to the gas-station attendant, thrown her arms around him, and kissed him with tears of joy. "Who was that?" a bemused Bill asks as they drive away. "Oh," replies Hillary somewhat wistfully, "he was an old flame I haven't seen in years." "Well," says Slick Willie with a smirk, "I guess if you hadn't married me, you'd be helping him pump gas now." "I don't think so," says Hillary icily. "If I had married him, *he'd* be president now."

No matter your partisan preferences, a truly magnificent Bush joke circu-

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[1] A 1988 joke has it that Nixon, Carter, Gary Hart, and Joe Biden are in the sinking ship. Carter wants to save the women; Nixon wants to screw them; Hart asks, "Have we got time?"; and Biden asks, "Have we got time?" This is a reference to the revelation that the Democratic senator from Delaware had plagiarized a speech.

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lated during the Florida imbroglio in late November. In a stylistically perfect spoof of Nostradamus's pompous prophecies, the "quatrain" ran: "Come the Millennium, month 12/ In the home of greatest power/ The village idiot will come forth/ To be acclaimed the leader." For the most part, however, political jokes — especially of the Clinton sex variety — follow the ba-doom-boom formula favored by late-night comedians.

On the broadest level, nonetheless, what all these jokes have in common is that they focus on the personal idiosyncrasies and foibles of individual politicians. None calls into question the legitimacy of the political system. Thus, one may have a great deal of fun with Ted Kennedy's eye for the ladies, his corpulence, and his veiny complexion, but who disputes the legitimacy and beneficence of Massachusetts democracy? It is remarkable that on September 10, having a laugh at Bush's expense was almost *de rigeur*. Thereafter, the nation looked directly to their elected representatives and president for mastership and determined command in the face of an implacable enemy. Even in the bar of the National Press Club, usually a hub of ridicule and cynicism, political jokes instantly ceased. No stronger proof is required of the democratic peoples' faith in their political system.

Put simply, ridiculing politicians does not belittle democracy, one reason being that we cheerfully recognize the absurdity of a system in which Kennedys, Clintons, and their ilk are successful. At the end of the day, we are the ones who control the levers of power: We can boot them out of office. In any case, the achievements of truly great politicians will inevitably overcome the temporary slings and arrows of ridicule.

In authoritarian societies, this happy state of affairs does not, for obvious reasons, pertain. The Anglo-American tradition of personal and partisan ridicule does not appeal to one-man or one-party regimes. As a 1960s German joke revealingly goes: Walter Ulbricht (the Stalinist leader of East Germany) and Willy Brandt meet and exchange pleasantries. "Do you have a hobby, Herr Brandt?" asks Ulbricht. "Yes," replies Brandt, "I collect jokes about myself. And you?" "I collect people who collect jokes about me," responds Ulbricht. Indeed, according to Suetonius, Augustus Caesar, who could be amusingly ribald, forbade jokes "against the emperor."

Political humor of a different sort emerges in authoritarian societies. Unless the regime in question appeals to the nation, its humor stabs at the heart of The System and its representatives rather than individual politicians. Under the rigidly pan-Arabist Nasser, remarks Khalid Kishtainy in his book *Arab Political Humor* (London: Quartet, 1985), jokes "were usually about his regime, his socialism, his suppression, but hardly ever about his person; they hovered around him but never dared to touch him."

There is a wrinkle to this rule: A purely military regime or an enlightened despotism rarely produces a rich trove of political jokes, though the ones that do appear tend to focus on personalities instead of The System. Sunglassed Latin American colonels or bewhiskered Habsburg emperors are

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more concerned with maintaining control in the here and now than with fulfilling prophecies of the dictatorship of the proletariat. Under Nasser's less ideological successors, jokes turned personal. Sadat jokes were caustic and scandalous while Mubarak is usually painted as a buffoon. One about Mubarak has him asking his private secretary to draft a five-minute speech, which he rehearses and annotates incessantly for weeks. Just before he is due to read it to the nation, a beetle-browed Mubarak sits scratching his head. "I just don't understand," he tells the secretary. "I asked for a five-minute speech, but no matter how hard I try I can't get this down to less than twenty." The secretary replies: "Your Excellency, there are four copies."

Put simply, it is governments whose very reason for existence is to impose a grand ideological vision on humanity which provide fertile manure for subversive jokes.

MODERN AUTHORITARIAN humor has its roots in the Jewish struggle for emancipation in mid-nineteenth-century Europe. The Jews, being outsiders, had developed a folklore ironically exposing the hypocrisy, falsehood, and hollowness of political elites, their stupid or brutal bureaucratic minions, and society at large. In the revolutionary ferment of Eastern Europe, such jokes — suitably amended — would be devastatingly aimed at the existing regimes by disaffected intellectuals. Indeed, among non-Jews in the more fashionably leftist salons of Berlin and Vienna, Jewish jokebooks were quite popular around the turn of the century. Even in 1920s Soviet Russia, in the so-called Golden Age of what would become known as "Soviet jokes," Jews excelled in cracking jokes at the expense of the regime. Very soon, such merriment would be driven first underground and then to the Lubyanka.

Soviet jokes, which also drew inspiration from the rich veins of witty Armenian riddles and long-winded Georgian drinking-speeches, are the highest form of authoritarian humor. It is a testament to their genius that they cross borders and time so effortlessly: Jokes conceived in, say, Romania or Poland would soon pop up elsewhere throughout the Soviet bloc. Variants, amended for local consumption, would emerge decades later in Cuba and throughout the Arab Ba'athist world. Most anti-Castro jokes, for instance, appear to be the work of Cuban immigrants to the United States using originally Soviet material.

As the classic Soviet joke goes, one secret policeman asks another, "So, what do you think of the government?" His colleague looks around before replying, "The same as you, comrade," whereupon Policeman No. 1 declares, "In that case, it is my duty to arrest you." Luis E. Aguilar, professor emeritus of history at Georgetown University, recalled in *Chistes: Political Humor in Cuba* (Cuban American National Foundation, 1989), "I heard the same joke years later. Only then it was being whispered in Cuba."

The lineage of some authoritarian jokes stretches back far farther than the benighted twentieth century. One of the most popular jabs at the stupidity

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and dangerous arbitrariness of officialdom may have first been told by Arabs in the tenth century. The basic Arab version describes camels who run away because an idiotic new law is pressing mules into service. By the 1920s and 1930s, expanding on a Jewish joke of the tsarist years, the Soviet version described a group of rabbits who make a run for the Russian-Polish border. Applying for admission, the rabbits cry, "The Party has given orders to arrest every camel in the Soviet Union!" "But you are not camels," replies the Polish border guard. "Well, you try telling *that* to the Party," say the rabbits. Later versions were popular throughout Eastern Europe.

Indeed, the joke never dies. While I was in Beirut earlier in 2001, an activist associated with the anti-Syrian movement told me its latest incarnation: The CIA, MI6, and Syrian Intelligence each send an agent to procure a camel. The CIA spook accomplishes his mission in a week. The MI6 man returns with a camel soon after. A few months later, the Syrian secret policeman straggles into town with a donkey. When queried by his boss, he repeatedly strikes the beast across the face, shouting, "Say you're a camel! Say you're a camel!"

DEMONSTRATING THAT while one apparatchik, appointed party leader, or secret police is as ghastly as any other but The System is forever, when individuals' or agencies' names were mentioned in these jokes they could be smoothly changed to reflect local circumstances. In democracies, this technique simply could not work. Listeners would be left puzzled if someone told any Clinton sex joke, and there are thousands of them, but replaced "Clinton" with, say, "Woodrow Wilson." But take an old Soviet joke like the one about the man who goes to a post office and complains, "These new stamps with Lenin do not stick," to which the bored clerk replies, "Comrade, you probably spit on the wrong side," and substitute "Lenin" with Castro or Brezhnev or Saddam. It still makes its point.[2]

Another distinguishing feature of authoritarian jokes is that they rely on the teller's and the listener's mutual, covert, assumed recognition of the regime's Big Lie — namely, that despite its incessant promises of Utopia, of freedom, of victory, and its exhortations to work harder, tighten belts, and watch out for saboteurs, the government's program is continually frustrated by the crooked timber of humanity.

It may take some time for the scales to fall from their eyes, but those living under authoritarian conditions eventually realize that there is a chasm between what they are told is the truth and what actually is the truth. As the

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[2] The post office joke is a remarkable, and seemingly unique, example of an authoritarian joke being transferred to a democratic politician, namely Richard Nixon. Thus, a 1970s joke ran that the Nixon stamp was cancelled because people kept spitting on the wrong side. The reason probably lies in Nixon being, among certain sectors of the population, the most loathed of American politicians.

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joke has it, Stalin, Khruschev, and Brezhnev are travelling on a train when it suddenly shudders to a halt. "Fix it!" orders Stalin. The engineers repair it, but still the train does not move. "Shoot everyone!" orders Stalin. All the engineers are shot, but the train obstinately refuses to budge. Stalin dies. "Rehabilitate everyone!" orders Khruschev. The engineers are rehabilitated, but the train remains stationary. Khruschev is removed. "Close the curtains," orders Brezhnev, "and pretend we're moving!"

As modern Arab thinker Abbas Mahmud al-Aqqad observes, "laughter is . . . a sudden and fast comparison between the state in front of you and the state which you imagine" — or are told should be. "Does two plus two equal four?" "I don't know, what did *Pravda* say this morning?"

Without this tragic contradiction between the ideal and the real, there could be no authoritarian jokes. Thus, a Hungarian goes to a Budapest hospital and asks for the Eyes and Ears Department but is told there are two sections: one for eyes, the other for ears. "Oh, but I must go to both," he sighs, "I don't know what has happened to me lately. I don't see what I hear." Similarly, two European communists are rewarded with a trip to the glorious Soviet Union, but only one comes back. At work, the fellow traveler is quizzed by a colleague,

> "How are living conditions in the Soviet Union?"
> "Wonderful. I couldn't believe my eyes."
> "And how is the housing? How is the food situation?"
> "Splendid. I couldn't believe my eyes."
> "But what happened to your friend?"
> "Oh, he's in Siberia. He *did* believe his eyes."

In *Everyday Stalinism: Ordinary Life in Extraordinary Times* (Oxford, 1999), Sheila Fitzpatrick has collected several examples of anti-Stalinist humor from the 1930s. These are all the more remarkable given that the NKVD would eavesdrop on conversations in shopping queues and markets, jotting down any caustic jokes or subversive rumors. Particularly good jokes would lead to the teller's arrest on the spot for "anti-Soviet conversation."

Soviet slogans such as "Life Has Become Better," numbingly repeated in newspapers and speeches, were satirized with rueful quips,[3] as were the acronyms of various state agencies. The initials of the 1930s Communist

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[3] On a serious note, regarding Stalin's "Life Has Become Better" slogan, an NKVD agent was present at a 1937 factory discussion centering on the new Soviet constitution. He reported: "When discussion turned to the fact that life has become better, life has become more cheerful, [one worker] threw the brochure of the draft constitution on the floor and began to trample it with his feet, shouting: 'To hell with your constitution, it has given me nothing. . . . I am going hungry. . . . My whole family is going hungry. . . . I have begun to live worse. . . . It was better before." Such outbursts, often sparked by drunkenness, were common. Quoted in Fitzpatrick, *Everyday Stalinism*.

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Party — VKP — were mocked by some peasants as standing for "Second Serfdom" (*Vtoroe Krepostnoe Pravo*) and a few, evidently suicidal, Leningrad teenagers joked that the initials of the U.S.S.R. (SSSR — or CCCP, in the Cyrillic alphabet) meant "Stalin's Death Will Save Russia" (*Smert' Stalina Spaset Rossiiu*). In the same tenor, owing to the felicitous similarity of "grad" (city) and "gad" (scoundrel), wits could have fun with Stalingrad and Kirovgrad.

WHAT WE HAVE dealt with so far is private political humor — the jokes cautiously whispered between intimates in authoritarian societies. Often passed over are two other sorts: semi-official and official.[4]

Semi-official humorists are those given space in party publications and newspapers, typically during periods of "glasnost," but kept on a leash. The political satire they produce is tactful rather than outspoken, resembling feints rather than knock-outs. As such, semi-official humorists tend to serve as the modern equivalents of medieval court jesters, whose jolly ribaldry at the expense of their patron could be permitted so far, but no further. It was a matter of knowing where the line was.

Given that their work was often subject to a "committee of fun" before publication, much has to be read between the lines. In the 1960s, for instance, the Polish satirist Stanislaw Jerzy Lec penned ambiguous one-liners masquerading as "Thought For The Day" nuggets of wisdom in the Warsaw weekly *Przeglad Kulturalny*: "I am usually requested to proclaim that life is beautiful by those who have made it miserable for me," or "If you want to sing in the choir, first take a good look at the conductor's baton." The penalties for not knowing when enough was enough could be harsh. Dimitur Chevdarov-Chelkash, editor of the Bulgarian magazine *Sturshel*, was sacked in 1961 for satirizing the fact that the government was storing thousands of pairs of shoes during a shoe shortage. The Home Trade Ministry weakly retorted they were for "emergency use only," fatally giving Chelkash more ammunition. Having gone too far, he was accused of being "out of touch with the people."

More influential was official humor. Newspapers and newsletters carried a "witty" cartoon, one-liner, or poem extolling the virtue of party domestic or foreign policies. Perhaps unsurprisingly, official attempts at making jokes were often — embarrassingly so — heavy, banal, and propagandistic. In each satellite, the party established official satirical magazines. In order to pretend that the party, too, could prick itself, the titles of these — the Czech *Dikobraz*, the Slovak *Rohac*, Poland's *Szpilki*, Bulgaria's *Sturshel*, and the

[4] On these matters, see J. Sanders, "The Seriousness of Humor: Political Satire in the Soviet Bloc," *East Europe*, XI (1962), No. 1, pp. 22-29, and No. 2, pp. 23-27.

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Romanian *Urzica* — can be translated, variously, as meaning "stinging," "nettles," "needles," "hornet," and "porcupine."

When it came to foreign policy, the magazines mostly stuck to caricaturing foreign politicians, inadvertently providing for us a glimpse into official party conceptions of the great abroad. Adenauer fared particularly badly: Usually portrayed as evil, deformed, and discolored, he was once depicted as a Fu Manchu lookalike playing an organ with sheet-music in front of him titled *Mein Kampf*. (Similarly, Willy Brandt was invariably drawn wearing a Nazi uniform.) Uncle Sam, but of course, was fat, ungainly, greedy, bellicose, and armed to the teeth, while John Bull acted as his sinister, craven accomplice. Very occasionally, in the edgier publications, there was a caricature of Khruschev (never of other Russian leaders, let alone Stalin): Sometimes the cartoonist cautiously flattered the man by drawing him as taller and slimmer than he was.

Particularly good jokes would lead to the teller's arrest on the spot for "anti-Soviet conversation."

Domestically, official artists were allowed to blow off a little steam, especially during times of shortage or crisis. In the aftermath of 1953, even the ultra-apparatchik Czech vice premier Vaclav Kopecky urged reviving "satire and cabaret humor" to damp down dissent. For the most part, acting in the time-honored authoritarian tradition of exposing the "few bad apples ruining the orchard," official humorists aimed their blunted darts at such convenient scapegoats as bungling functionaries, asinine regulators, and corrupt bureaucrats. But they refrained from directly attacking party leaders or policies.

The most interesting aspect of officially sanctioned humor is the conviction by authoritarian governments that jokes could be harnessed and put to good use. A year after backing "satire and cabaret humor," Kopecky laid down that "on no account may humorists ridicule the activities of the Party. . . . Not a shadow of blame or mockery must affect the glorious native Party which deserves to be esteemed and loved to a supreme degree."

More revealingly still, in 1961 the Bulgarian leadership decided that the *purpose* of humor "is to collaborate with the Bulgarian Communist Party in solving the economic and other problems of the nation, and in bringing up the workers in the spirit of communism. . . . In the struggle for the building of socialist society, our humor and satire must be a sharp ideological weapon."

GEORGE ORWELL'S 1945 essay, "Funny, But Not Vulgar," tends to be regarded as the most perceptive analysis of political humor. He wrote that "every joke is a tiny revolution" and defined humor, brilliantly, as "dignity sitting on a tin-tack." So "whatever destroys dignity, and

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brings down the mighty from their seats, preferably with a bump, is funny." Yet considering the efforts that authoritarian regimes devoted to turning humor into a tool, this typically democratic idea — itself based on the Freudian belief that jokes allow us to revolt against authority and terror in order to liberate ourselves — that mocking politicians cuts them down to size is overly deterministic.

That is very true of Western democracies but not necessarily so of authoritarian regimes. Orwell, it is sometimes forgotten by those who apply his thoughts too universally, was writing about the decline of English humor from its eighteenth-century zenith. Nevertheless, referring to his movie and now Broadway musical *The Producers*, Mel Brooks recently explained that "if you ridicule [dictators], bring them down with laughter — they can't win. You show how crazy they are." Andrew Stuttaford, writing for *National Review Online* (October 15), similarly believes that "far from trivializing a conflict, humor can be a very useful weapon in its pursuit." Referring to Osama bin Laden, Stuttaford observed that "this is someone to jeer and scoff at, a clown in a cave to be mocked, parodied, derided, lampooned, taunted, and ridiculed, a jerk on a *jihad* that we can only despise. . . . He's a loser."

However, it is questionable whether ridiculing the Soviet regime "brought it down." Was the communist colossus, or any other authoritarian/totalitarian regime, ever really a laughingstock? Likewise, in the 1930s, the British sniggered at Adolph Hitler's ludicrous mustache and manic gesticulations, but did that persuade millions of Germans he was "crazy"? Bin Laden may well be a "loser" and a "jerk," but the nicknames retard the dreadful realization that he represents a coalescing Islamist totalitarian ideology. In any case, dictators like Saddam Hussein may very well be cheaply dismissed as "crazy," but laughter does not lessen the dangers posed by them, let alone explain why creatures such as Stalin proceeded utterly rationally with their plans — and persuaded others to join them.

From a distance, it is easy to say that Russians recognized communism's ultimate absurdity and so laughed at it to "liberate" themselves before its "inevitable" collapse. But it may be more realistic to argue that, despite their recognition that communism was murderously absurd, Russians quietly cracked jokes just to *endure* it. Authoritarian jokes are not tiny revolutions; they are temporary pain relievers serving as a substitute for being allowed to participate in real politics.

The sentimental axiom that jokes in, or against, authoritarian societies are liberating certainly does not stand up to scrutiny in the singular case of Nazi Germany. German jokes — and, in particular, those of working-class Berliners, who seem to have conjured up most of the gags — were unusual in that Nazi leaders, not Nazi ideology or the state apparatus, were their butt. This idiosyncrasy would seem to indicate that, at least until very late in the war, many Germans identified with and accepted the regime and its aims. Given that the Reich lasted but 12 years (half of which was occupied

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by fighting) and the Soviet Empire lasted eight mostly peaceful decades, Germans were not given the same opportunity to witness the Big Lie.

In the German case, political jokes were neither "tiny revolutions" nor pain relievers, but good-natured fun akin to jokes in democratic societies where the political structure is assumed to be legitimate.

Compare, for instance, the bitter Soviet transliteration of such acronyms as VKP as "Second Serfdom" to their playful German equivalents. As R. Grunberger reports in *The Twelve-Year Reich: A Social History of Nazi Germany, 1933-1945* (De Capo Press, 1995), the abbreviation KdF (*Kraft durch Freude* — "Strength through Joy") became *Kind durch Freund* ("Child by a Friend") or *Kotz durchs Fenster* ("Vomit through the Window"), and BdM (*Bund deutscher Mädchen* — "German Girls' League") turned into *Bund deutscher Matratzen* ("German Mattresses League").

Before the war, unless one was stupid enough to tell anti-Hitler or unpatriotic jokes loudly in the Gestapo's earshot, the great majority of jokes ribbing the Nazi elders were not vicious enough to qualify non-Jewish Germans for life-threatening punishment. During the war, openly telling an anti-Nazi joke merited a death sentence — though this was unlikely — but then again, so did committing a myriad of other offenses such as race defilement, marriage-swindling, stealing goods during a blackout, and submitting a bogus claim form.

In his 1972 memoirs, the leftish (non-Jewish) Weimar political comedian Werner Finck recalled that in the early Hitler years Gestapo men would occasionally come to his cabaret, note down his double entendres and waspish allusions, and then leave inconspicuously. After a brief spell in a concentration camp in the mid-1930s, Finck was allowed to reopen his cabaret. The Ministry of Propaganda would sometimes send him admonitions but for the most part he was left alone. The cabaret was finally closed down after Goebbels declared in the *Völkischer Beobachter* that he had been "forced to take a series of measures concerning political humor. Naturally, the German people have lots of humor, but even this has limits!" As punishment, Finck was expelled from the Actors' Guild, but served in the *Wehrmacht* during the war as a radio operator.

Many German jokes centered on the blatant disparity between the physical appearances of a portly Goering and a club-footed little Goebbels, or the well-known reputation of Ernst Röhm as a homosexual, and the Nazi ideal of blonde, nobly-countenanced, stoutly straight Aryan Man.[5]

Hermann Goering jokes, which were generally good-natured teasing, concerned (a) his fatness and (b) his mania for accumulating decorations, titles, and uniforms. Typical ones run as follows: Goering's adjutant urgently

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[5] See F.K.M. Hillenbrand's eclectic collection of jokes and anecdotes, *Underground Humor in Nazi Germany, 1933-1945* (London: Routledge, 1995).

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informs the great man that "a pipe has burst in the Air Ministry!" to which Goering replies, "Quick! Bring me my admiral's uniform!" Or, on their wedding night, his wife awakes and catches a naked Goering waving his marshal's baton around. "What are you doing?" she asks. "I'm promoting my underpants to overpants." Victor Klemperer's remarkable *I Will Bear Witness, 1933-1941: A Diary of the Nazi Years* (Random House, 1999) records just one joke between 1933 and 1941. It contrasts the 1917-18 punchline to the question, "How long will the war last?" with its modern equivalent. During the Great War, the answer was, "Till the officers have to eat the same food as the men"; during the Second World War, "Until Goering fits into Goebbels's trousers."

As for Goebbels, the minister of propaganda, jokes about him ridiculed his deformities, height, and complexion. It was only his many enemies in the party who tended to circulate those more waspishly commenting on his propagandistic distortions. Ernst Röhm, the brownshirted SA commander executed by Hitler in the Night of the Long Knives, generated a huge number of jokes, all of which harped on his homosexuality, towards which an "innocent" Hitler averted his eyes for a suspiciously long time (as a 1934 joke went: "Just imagine how upset the Führer will be if he gets to know Goebbels has a club foot!"). Perhaps unsurprisingly, the only leading Nazis to escape laughter were *Reichsführer SS* Heinrich Himmler and his chief executioner, *SS-Obergruppenführer* Reinhard Heydrich (whose unusually high-pitched voice would otherwise have marked him as a prime target).

Even when jokes assumed a seemingly anti-institutional hue — such as the ones remarking on the stupidity of SA men — these were frequently the product of institutional rivals. In the SA's case, SS officers, who cultivated a more elegant image, liked to lord it over the Brownshirts. It appears that most of the truly anti-Nazi jokes which do survive were either conceived *after* the war, or before it by Jews and transported abroad by émigrés.

FINALLY, IT IS unfortunately difficult to unearth many political jokes from the world's largest authoritarian country, China. This dearth may be partly attributed to translation problems, lack of Western interest in fields unrelated to the high politics of economics and foreign affairs, and, perhaps, societal structure.

Though migration from the country to the coastal cities has risen in recent years, vast numbers of Chinese citizens are rural peasants. Historically, as is the case in most cultures, the agricultural and illiterate poor enjoyed a rough-hewn peasant humor centering around slapstick, sex, and *Schadenfreude*. Ridicule was common, but it seldom targeted the Imperial system, the central bureaucracy, or regional governments; rather, peasants would laugh at particularly buffoonish local officials or village headmen. In a manner resembling Roman "high" humor, the great Chinese traditions of clever wordplay and literary allegory were confined to intellectuals and political elites.

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Though some crude jokes — usually of a sexual nature — circulated about Mao's cruel widow after Deng Xiaoping's reforms, and despite a degree of disillusionment with the communist regime today, there is a widespread absence of outright alienation between the Chinese and their government. The communist — or semi-communist, as it now is — government has been in power only since 1949 and until the 1960s was undoubtedly popular. Then came the Cultural Revolution, in which even the merest suspicion of thinking about an "intellectual" joke resulted in death. Unlike the Russians, who had decades to learn to see through the gauze veiling their relative poverty and official protestations to the contrary, the income and prospects of the average Chinese appear to be rising. Despite sunny prognostications about Chinese calls for political liberalization following the transition to "market socialism," these hopes have not, as yet, borne much fruit.

China not only lacks the Jewish folkloric tradition of social and political commentary, but, aside from such places as Xinjiang and Tibet, is ethnically 90 percent Han. In the Soviet Union, subjugated nations from Poland to Central Asia could at least mournfully joke at the expense of their Russian tormentor. Indeed, there is an entire category of Soviet humor targeting discrimination by the Russian majority against a particular national minority, or the domination by a strong state over a weaker one.

Given time, however, China's political humor may come to resemble Soviet-style humor, perhaps by appropriating the old stand-bys. And perhaps, if we're lucky enough to see the day, the Chinese will even crack democratic jokes.

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BOOKS

The Western Way Of War

By WOODY WEST

VICTOR DAVIS HANSON. *Carnage and Culture: Landmark Battles in the Rise of Western Power.* DOUBLEDAY. 492 PAGES. $25.00

IT IS A QUESTION that goes to the buried strata of the human psyche: Whether war is a more natural condition than peace for the species in which we are card-carrying members — even defining peace so contingently as the absence of war. Probing as this question must be for philosophers and political scientists, however, for the historian it is less compelling than the constant fact of conflict over recorded time.

This constancy of war is the field the military historian plows, though that specialty has not enjoyed top billing on the academic marquee in recent decades. In *Carnage and Culture*, Victor Davis Hanson explores the intimate kinship of social institutions and the waging of war, stretching the topic beyond the traditional matrix (so historian John Keegan suggests, and indeed Hanson credits him with sketching the outlines of this fresh approach).

The theme trenchantly explored by Hanson, professor of classics at the University of California at Fresno, is that since Greco-Roman times, "There has been a peculiar practice of Western warfare, a common foundation and continual way of fighting, that has made Europeans the most deadly soldiers in the history of civilization." This "singularity" of battlefield prowess resides in free men mustering under consensual governance (it is not courage, as such; that, Hanson notes, is a human characteristic). "Citizens, it turns out, are history's deadliest killers."

Hanson stipulates that his interest is in the military power, "not the morality," of the West. Nor is he interested in discussing the "general nature and evolution" of Western civilization at large in a book intended for general readers.

The "continuum" of superiority in war, he contends, is intrinsic to Western philosophical premises and political institutions, among them the development of "vibrant" markets, empirical energy, and technological innovation, all of which have been basic to the Western way of war.

Those who read his book published five years ago, *Fields Without Dreams*, a painful lament and angry analysis of the fading agrarian idea in the West as examined in the travails of his sixth-generation family farm in California, will be familiar with Hanson's take-no-prisoners intellectual style and refusal to give hostages to fashion. He will be visiting professor of military history at

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the U.S. Naval Academy at Annapolis during the 2002-2003 academic year, and has been churning out pungent commentary as a contributing writer for *National Review Online*.

Carnage and Culture is an insightful journey through the past, and immediately pertinent as the Western coalition and its non-Western partners now are embarked on a "twilight war" against terror and its practitioners. It is an audacious historiographic thesis, and the more so as Hanson also reflects that this martial legacy might be at an "impasse" as a new millennium has begun unfolding.

Carnage and Culture *is an insightful journey through the past, and immediately pertinent as the Western coalition and its non-Western partners now are embarked on a "twilight war" against terror and its practitioners.*

To establish the consistent lethality of Western arms and its cultural genesis, the author writes of nine illustrative battles. The first is Salamis in 480 BC. In that narrow body of water a few miles from the burned Acropolis, Greek citizens of Athens manned the oars of their sleek triremes and devastated the huge fleet of Xerxes, with as many as 40,000 Persian casualties. "All were doomed far from Asia in the warm coastal waters of the Aegean, all destined for the bottom of the Saronic Gulf. Their last sight on earth was a Greek sunset over the mountains of Salamis — or their grim king perched far away on Mount Aigaleos watching them sink beneath the waves," Hanson writes with the felicity that makes his narrative a pleasure.

The other battles in this sanguinary account are: Gaugamela, 331 BC, where Alexander, relying on the concept of decisive battle and massed heavy infantry developed by his father, Philip, defeated Darius III's army of peasants and slaves in Mesopotamia, thus ending the Archaemenid dynasty that had threatened Greece for a century; the Roman disaster at Cannae, 216 BC, where Hannibal's smaller polyglot army killed 70,000 Roman legionnaires, which the resilient republic was able to replace within a single year; Poitiers, 732 AD, in which Charles Martel defeated the Moors, marking the "high-water mark" of Islamic penetration of Europe; Tenochtitlán, 1521, where Cortez's miniscule army brought down the dazzling Aztec empire by relying on technological savvy; Lepanto, 1571, the devastation of the Turkish fleet by the Holy Alliance; Rorke's Drift, 1879, where fewer than 100 British soldiers fighting desperately under the "harmony" of capable leadership and steely discipline held off a Zulu army of more than 3,000 warriors for a day, just after a British force of more than double their strength but abominably commanded and deployed were wiped out at Isandhlwana; Midway, 1942, where antiquated U.S.

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aircraft, inexperienced pilots, solid intelligence, and individual initiative crippled a far more modern Japanese fleet and ripped Tokyo's ambitious strategic blueprint; Tet, 1968, the Viet Cong-North Vietnamese offensive that was smashed in weeks but was so portrayed as a defeat in the U.S. that it prefigured the eventual and dismal end to America's commitment.

Each of these illustrates aspects of the evolving Western legacy of battle: the tenacity of constitutional states; emphasis on decisive battle; the "civic militarism" of citizen soldiers, defined by Hanson as "the notion that those who vote must also fight to protect the commonwealth, which in the exchange granted them rights"; reliance on heavy infantry; technological power; the contribution of market capitalism to warfare; discipline and leadership, individualism and initiative; and dissent, self-critique, and civil audit of the conduct of wars.

In discussing the military efficacy of individualism, as exemplified at Midway, Hanson encapsulates components of this Western "singularity":

> [T]he formal and often legal recognition of a person's sovereign sphere of individual action — social, political, and cultural — is a uniquely Western concept, one that frightens, sometimes rightly so, most of the non-Western world. Individualism, unlike consensual government and constitutional recognition of political freedom, is a cultural, rather than political, entity. It is the dividend of Western politics and economics, which give freedom in the abstract and concrete sense to individuals and in the process fosters personal curiosity and initiative unknown among citizens where there are no true citizens and neither government nor markets are free.

As a template for his thesis, Hanson begins with Xenephon's *Anabasis,* the remarkable account of the "Ten Thousand" who hired out to Cyrus the Younger in his campaign to unseat his brother from the Persian throne in 401 BC. These Greek soldiers of fortune were veterans of the Peloponnesian War (431-404), the civil war that had fragmented the Hellenic world. Many were murderous renegades and exiles, and they knew their brutal trade.

After Cyrus was killed on the verge of victory, the Greeks were faced with either surrender or the prospect of fighting their way home through 1,500 miles of hostile territory. They chose the latter. (Anyone who studied the ancient world in a dimly recalled past, even if now barely able to navigate the Greek alphabet, vividly remembers the triumphant shouts of "Thalassa! "Thalassa!" as the sturdy warriors reached the Black Sea at the end of their epic march.) The Ten Thousand survived because they were highly disciplined soldiers who routinely assembled to vote on the proposals of their elected leaders and met in councils to debate tactics and modifications in organization. They were, in short, "a marching democracy" — the product of a "vast cultural divide" between the Eastern tribes they fought and the unique institutions of the Greek polis, the city-state.

Carnage and Culture obviously con-

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structs in its general theme a long wall from past to present. It is a well-mortared one. Hanson is careful to note the variables, the often interrupted progress, and the seeming contradictions out of which Western battlefield superiority developed. For example, the different meanings over time of "free," from the limited extent of citizenship in Greece to the inclusive sense under the Roman republic; the technological inventiveness of Western weaponry and organization which, even when effectively copied by opponents, as the Japanese did in years leading up to World War II, lacked the cultural scaffolding to sustain it in battle.

The caves of the Taliban and the formidable topography of Afghanistan, plus the insidious global network of terrorist organizations and resources will be an enemy so different in degree as potentially to constitute a difference in kind.

Hanson's is a compactly comprehensive examination of the Vietnam war, with Tet as a crystallizing campaign — and thoroughly examines the role of dissent and self-critique in the history of Western warfare. "The Vietnam experience stands as the worst-case scenario imaginable in a free society at war — a test of the institution of free criticism fundamentally distorted, in which many of the dissidents were ignorant, their tools of communication instantaneous and enormously powerful, and their sympathies more with the enemy than with their own soldiers."

The first three years of major U.S. involvement, 1965-1968, were devoted tactically to an attempt to create the conditions of the traditional Western decisive battle, in which its "wonderfully trained and disciplined shock infantry" could destroy the enemy and go home. But U.S. forces encountered an enemy that preferred infiltration, terror bombing, and raiding. "The military's problem in Vietnam, at least in the short term, was not an absence of an approving majority back home, but the growth of a vocal, influential, and highly sophisticated minority of critics — activists who cared much more deeply about abruptly ending American involvement than did the majority of supporters in maintaining it" — this minority including dominant elements of the media, for whom "hysteria" was an element of their reportage.

Additionally, "it was as if thousands of graduates from America's top military academies had not a clue about their own lethal heritage of the Western way of war. . . . Yet ultimately, the American military command itself forfeited the war. . . . The top echelon lost the conflict because they accommodated themselves without imagination to the conditions of political audit and scrutiny that made it difficult, but not

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impossible, to win," Hanson writes. "The military could have easily won the war it wanted to fight, but did not know how to fight the war it was asked to win." Consonant, however, with the Western tradition, the author contends, the unrelenting barrage of criticism did contribute, post-Tet and under Gen. Creighton Abrams from 1968 to 1971, to a more rational and effective prosecution of the war — though too late to overcome political and social opposition.

THE MILLENNIA-LONG superiority of Western arms fails, Hanson writes, only when Westerners have fought Westerners in Europe — of which the late last century provides a bloody epitome. It is this prospect, with the cataclysmic weapons of mass destruction in intra-cultural war, that worried Hanson in contemplating the future — as he wrote this book doubtless watching the ominous turbulence in the Balkans (where it has been observed that more history is produced than can be consumed locally). "Most see in the advance of rationalism, capitalism, democracy, and their ancillary values the seeds of perpetual peace and prosperity. Maybe, but we must remember that these ideas are also the foundations that have created the world's deadliest armies of the past."

Now, in the acceleration of change and event, there is likely an even greater inhibition to the traditional way of Western war and its lethality. A decisive battle in which Western powers invoke decisive shock force and overwhelming weaponry can hardly be the script of this first war of the twenty-first century — the war against terror and, in part, against resurgent Eastern antagonism toward the West. The caves of the Taliban and the formidable topography of Afghanistan, plus the insidious global network of terrorist organizations and resources — and, it may be, their possession of weapons of mass destruction and/or panic (e.g., anthrax) — will be an enemy so different in degree as potentially to constitute a difference in kind.

There will also be the influence of the Western tendency to lose patience when victory proves elusive, when vast riches are expended, when body bags continue to be filled, and, not least, as Vietnam direly documented, a vocal minority is able to influence significantly public perseverance — for rational or for contrived reasons.

Hanson ends this stimulating book by noting that key ingredients of traditional Western warfare appear to be all but gone: "Mercenary armies in America and Europe are the norm. . . . Fewer Americans — soldier and civilian alike — are voting than ever before. Most have not a clue about the nature of their own military or its historic relationship with its government and citizenry. The rise of a huge federal government and global corporations has reduced the number of Americans who work as autonomous individuals. . . . Freedom for many means an absence of responsibility, while the culture of the mall, video, and Internet seem to breed uniformity and complacence, rather than rationalism, individualism, and initiative. Will the West always, then, possess persons of the type who fought at Midway, or citizens who rowed for their freedom at Salamis, or young men who rushed to reform their battered legions in the aftermath of Cannae?"

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The questions are bluntly put. Now — as perplexed editorial writers sometimes end their day's quota of opinion — "we shall see."

Enviro-Skepticism

By Jon Jewett

Bjørn Lomborg. *The Skeptical Environmentalist: Measuring the Real State of the World.* Cambridge University Press. 352 Pages. $27.95

In February 1997 Bjørn Lomborg, a young Danish statistics professor and self-described "old left-wing Greenpeace member," read an article by Ed Regis in *Wired* magazine about Julian Simon (the article, entitled "The Doomslayer," is archived online at www.wired.com). Simon, a professor of business administration at the University of Maryland who died in 1998, argued in a series of books and articles that the standard gloomy assessments of the state of the world had no basis in fact.

One of Simon's principal contentions was that the world was not "running out" of resources, but rather that nearly every physical resource was becoming cheaper and more plentiful over time. This led to a famous wager with the Stanford biologist Paul Ehrlich in 1980. Simon bet Ehrlich that five metals, selected by Ehrlich, would cost less, adjusted for inflation, in 10 years than they did at the time of the wager. Simon won decisively; the price of every metal dropped, in most cases substantially (Ehrlich unfortunately learned nothing from this experience, and has continued to prophesy disaster in various forms, for which he has been rewarded with many honors).

Simon subsequently took on and debunked nearly every item of the familiar environmentalist litany of doom. "The Litany" has of course not become any less popular as a result. A current recitation can be found in the October 18, 2001 *New York Review of Books*, courtesy of Frederick C. Crews:

> Think of the shadows now falling across our planet: overpopulation, pollution, dwindling and maldistributed resources, climatic disruption, new and resurgent plagues, ethnic and religious hatred, the ravaging of forests and jungles, and the consequent loss of thousands of species per year — the greatest mass extinction, it has been said, since the age of the dinosaurs.

Simon, primarily relying on standard governmental statistical series, showed that the Litany is inconsistent with the facts. The data he presented showed that the shadows are not falling, but lifting.

Lomborg was provoked by the *Wired* article into creating a study group to thoroughly examine Simon's data, expecting to show that it was "simple, American right-wing propaganda." But to his surprise, Simon's points largely stood up to scrutiny. *The Skeptical Environmentalist* is the result.

Jon Jewett practices environmental law in Richmond, Va.

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In it, Lomborg analyzes the elements of the Litany, including those recited by Crews:[1]

Overpopulation? Malthus has been proven wrong. The quantity of food and other resources per person is growing steadily. The rate of global population growth is declining. The most affluent societies are not even reproducing at replacement level, and birth rates are falling everywhere.

Pollution? Today there is far less pollution of the air, water, and land than our parents and grandparents experienced. The transformation of cities such as Pittsburgh and London over the past 50 years has been astonishing. And in the developing countries there is every reason to believe that we will see the same pattern. Economic growth will bring less pollution, not more.

Dwindling and maldistributed resources? The long-term trend, which shows no signs of abating, has been for virtually all natural resources to become cheaper, and, because of more efficient transportation, disparities in cost and availability have been greatly reduced. As Simon convincingly argued, the record of human ingenuity and our ability to substitute materials suggest that we will never "run out" of critical raw materials.

Climatic disruption? There is no evidence that extreme weather events have increased in number or intensity.

New and resurgent plagues? Life expectancy continues to increase around the world, and the prevalence of infectious disease, which is a fraction of what it was a hundred years ago, is not increasing.

The ravaging of forests and jungles?

Today there is far less pollution of the air, water, and land than our parents and grandparents experienced. The transformation of cities such as Pittsburgh and London over the past 50 years has been astonishing.

About a third of the world is forested, and the size of this area has changed very little since World War II. Tropical deforestation is occurring at a rate of less than one-half of 1 percent a year, and not as a consequence of economic development, but as the result of its absence.

The loss of thousands of species per year? About 1,600,000 species have been identified. Estimates of the actual number of species range from 2,000,000 to 80,000,000. No one knows the rate of extinction or the rate at which new species are arising. The

[1]The ethnic and religious hatred cited by Crews is not a subject addressed by Simon or Lomborg, but even a casual student of history knows that today these sentiments are much milder in the developed world, and no greater in the developing world, than they typically were in the past.

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best current estimate based on actual observations, and using an extremely high estimate of the likely increase in the extinction rate, is that about seven-tenths of 1 percent of species may go extinct over the next 50 years.

Thus the Litany consists of non-problems (overpopulation, dwindling resources, climatic disruption), problems that are under control and declining (pollution, new and resurgent plagues), and problems that have been hugely exaggerated and can only be solved by building modern, free-market economies in poor countries (deforestation, loss of species). All in all, Lomborg concludes, "mankind's lot has vastly improved in every significant measurable field and . . . it is likely to continue to do so."

None of this is news to readers of Julian Simon, and indeed the facts on which this book is based have long been readily available to anyone interested in environmental trends and conditions. Nevertheless, Lomborg has produced a very useful book. Meticulous, balanced, and thoroughly documented, it is an excellent summation of what is currently known about the "real state of the world." In addition to the issues addressed above, it is particularly illuminating on the subjects of pesticides, global warming, and genetically modified foods. Undoubtedly *The Skeptical Environmentalist* will receive some unfriendly and dismissive reviews, but most of Lomborg's points are irrefutable, the rest reasonable interpretations of the available evidence.

Although professional environmentalists will undoubtedly see this book as an attack, Lomborg is by no means hostile to environmental values or insensitive to environmental problems. He is not peddling a Panglossian view of the world, or denying that there are problems that merit action. What concerns him is that they are not being dealt with realistically and rationally. Because of the public misperceptions of risk reflected in the Litany, resources are being misallocated. Consequently society is less safe, and the environment is less healthy and clean, than each would be if we based our prioritizations "not on fear but on facts."

Although there may be considerable grounds for optimism about the condition of the planet, it is difficult not to be pessimistic about the likely impact of this book. The Litany has proven to be largely impervious to mere facts. Lomborg mentions a few of the reasons.

The major environmental organizations have both economic and political reasons to exaggerate the extent of our environmental problems and avoid dispassionate analysis of the costs and benefits of the solutions they propose. Their fundraising depends on maintaining the perception among their membership that the environment is under siege. To admit that an environmental issue is complex and not well understood, and that a proposed solution could on balance have a negative impact, does not make for a very effective call to arms. Major environmental legislation gets passed only if a sense of crisis is created.

And there is a price to be paid by those who openly dissent from the conventional environmental wisdom. Politicians who oppose the environmentalist agenda are characterized as

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industry shills who are corrupt or indifferent to environmental despoliation. Those scientists and other professionals who are in the best position to point out the inaccurate and exaggerated nature of environmentalists' claims are reluctant to do so. In some cases this is due to fear of appearing to be on the "wrong side" of an environmental issue and possible damage to personal or professional relationships. They may also feel that exaggerated and misleading arguments should be overlooked and forgiven because those making the arguments have their hearts in the right place and the cause is a righteous one.

Of course, at a general level the cause *is* righteous; environmental protection is a good thing; no one wants to be against it. There is a consensus in favor of environmental protection. The debate is really only at the margin. But as Lomborg points out, the policies advanced by environmental organizations often would leave society worse off because they are based on false premises.

In general, representatives of the media are believers in the Litany. With few exceptions they are inclined to reduce complex technical issues to a morality play pitting the good-guy, if perhaps a trifle zealous, environmentalists against self-interested, black-hat polluters. They are not interested in doing the work necessary to subject environmentalist claims to scrutiny.

Ultimately people believe in the Litany in the face of contrary evidence because they want to believe it. And the people who most want to believe it are the affluent and secure. Someone living in the eastern United States has to be very affluent to spend much time worrying about the effect on a caribou herd of drilling for oil in a tiny corner of a vast and desolate arctic plain. The connection between environmentalism and affluence has long been recognized. As William Tucker wrote in *Progress and Privilege* (Anchor Press, 1982), "Environmentalism has been the mass adoption of aristocratic values by America's burgeoning upper-middle class. It is the 'conservatism of the liberals.' "

Environmental organizations have both economic and political reasons to exaggerate the extent of our environmental problems and avoid dispassionate analysis of the costs and benefits of the solutions they propose.

It is no accident that Theodore Roosevelt, the first politician to make preservation of the wilderness a major part of his agenda, was a child of wealth who grew up in Manhattan. His descendant Theodore Roosevelt IV, still wealthy and still based in Manhattan, is an active environmentalist today. The environmental movement, even as it has recruited a large upper-middle-class membership, continues to be staffed and funded to a not insignificant extent by people with names like Rockefeller,

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Pew, Getty, and Kennedy. The family fortune may have its origin in dark satanic mills, but the current generation can devote itself to saving the earth. In its romantic, nostalgic, only-man-is-vile view of the natural world, its disdain for vulgar materialism, and its grandiose objectives, environmentalism has its greatest appeal to those who are already on the upper rungs of the economic and social ladder. Scratch a captain of industry or finance, and you will often find a life member of the Sierra Club, or at least a generous supporter of the Nature Conservancy. His children, being more sheltered, will be susceptible to the full-strength versions of environmentalism peddled by EarthFirst! and Greenpeace. The appeal of the Litany is fundamentally visceral, not rational, and so it is highly resistant to the sort of detached, cold-eyed analysis engaged in by Lomborg and Simon.

Modern free-market economies generate wealth. The wealthier a society is, the cleaner and healthier will be its environment. Wealth also begets environmentalism. And environmentalists are predisposed to perceive that things are getting worse, and to support policies that retard the very economic growth that is necessary if environmental conditions are to continue to get better. This is the paradox of environmentalism. And so in the absence of worldwide economic regression, it seems likely that the rhetoric of environmentalism will grow ever darker and more apocalyptic, and its agenda more extreme, even as objective measures continue to show environmental improvement.

Although he is unlikely to convert many of the faithful, it is to be hoped that Lomborg will make *The Skeptical Environmentalist* a continuing project. As environmental data accumulate, and new false alarms are inevitably sounded, there will be a need for revised editions. If he perseveres, Lomborg may prove to be a worthy successor to the original doomslayer, Julian Simon.

Lord Of the Commons

By Henrik Bering

Alan Clark. *Diaries*. Phoenix Giants. 420 pages. £12.99

Alan Clark. *Diaries: Into Politics*. Weidenfeld & Nicholson. 389 pages. £20

As regular readers of the British tabloids already know, British politicians are a naughty lot. Especially the conservatives. As the proud products of Britain's finest private schools and universities, they invariably seem to entangle themselves with working-class girls named Mandy. Some even harbor a penchant for dressing up in strange costumes: To get his kicks, so to speak, one former

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Henrik Bering is the author of Helmut Kohl *(Regnery).*

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minister of the arts would wear the uniform of his favorite soccer team during his amorous dalliances. In a more recent example, the former vice chairman of the Conservative Party and famous novelist Jeffrey Archer now resides in Her Majesty's Prison for having lied about his affairs with prostitutes.

The naughtiest of them all, however, was the conservative parliamentarian Alan Clark. Before his death in 1998, Clark gave new meaning to the word "cad." Compared to him, Flashman is mere fiction.

Clark was the son of the noted art historian Kenneth Clark, who served as director of the National Gallery but is more widely known for the "Civilisation" television series on the BBC. He served as a junior minister in the Thatcher government — first in the Ministry of Employment, then as minister of trade, and finally as the No. 2 man at the Ministry of Defense. Clark aspired to the top job at defense but never got it, despite having written a number of perspicacious and well-received books on military subjects. The problem was that Clark, while gifted, was in the habit of saying the wrong thing at the wrong time — a habit that earned him the sobriquet "Mrs. Thatcher's little loose cannon."

Clark was also a notorious womanizer. At one time he seduced the wife and two daughters of a South African judge. In London he maintained a harem of "three girls related by blood" who serviced him. Add to that his fondness for drinking, his excessive gambling, and his prodigal plays in the stock market, and Clark is definitely not role model material.

Clark was a diligent diarist, however, and remained so throughout his 40 years in public life. The first volume of his diaries, chronicling the years 1983-1991, was published in 1993. The book records the high triumphs of the Thatcher era as well as the low skullduggery of the little men who finally slew Britain's Iron Lady. Now the second volume of Clark's diaries has appeared in print. *Into Politics* is a prequel to the first book, covering Clark's early years in Parliament, 1972-1983.

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But why, some may ask, should one bother to remember — let alone read about — some politician who never quite made it to the big leagues, a man who belongs in a Restoration comedy or a sordid Victorian novel rather than public life? The answer to that question, and what sets these diaries apart from most other autobiographical material, is Clark's honesty. Clark crafted his memoirs with an almost total

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disregard for his appearance to posterity. His diaries are refreshingly free of the self-conscious drive to project an "historical legacy" — or even a respectable public persona — that is typical of today's politicians. As Clark notes in the introduction to the first volume, "Sometimes lacking in charity; often trivial; occasionally lewd; cloyingly sentimental, repetitious, whinging and imperfectly formed. For some readers the entries may seem to be all these things. But they are real diaries."

Thus Clark has been compared to the great names in the genre, Pepys and Boswell, for his ability to bring an era to life. Clark combines keen observation with a delightful sense of comedy and happy turns of phrase, and charmingly mixes the private with the public. He also demonstrates an unerring instinct for what George Orwell, writing about Dickens, called the unnecessary detail, which turns out to be very necessary indeed. Together, the two volumes form the best running commentary available on the Thatcher years.

Educated at Eton and Oxford, where he read modern history under Hugh Trevor-Roper, Clark prized luxury and privilege and could little tolerate boredom. As is often the case with sons of famous fathers, Clark drifted a bit, qualifying as a barrister and writing four military histories and two novels. He entered politics in 1972, when the hapless Edward Heath was prime minister, as the Tory MP for Plymouth Sutton.

Throughout his career, Clark spurned the drearier sides of political life, such as tiresome meetings with constituents. And he never made the customary effort to appear as a humble servant of the people. As Clark puts it, "Honestly, I could not be bothered to conceal either my Etonian drawl or my intention to offend or insult . . . so you can just take or leave it." Unsurprisingly, Clark stood firmly on the right side of the political spectrum. There was never even the pretense that he was on a mission to save the world. This is, after all, a man who named his rottweiler Eva Braun.

Indeed, Clark spent most of his time trying to save himself. His father had given him Saltwood Castle, the family estate, but he remained chronically unable to finance his profligate lifestyle. The gambling debts were always mounting, the moat continually needed repair, and the bank was perpetually threatening Clark with bankruptcy. These exigencies repeatedly forced him to sell works of art or — in more dire circumstances — to offer items from his beloved collection of vintage cars. Accordingly, Clark eagerly waits for his father to do the decent thing and die, so he can inherit the rest of the family fortune. On one occasion he describes his father as looking "shifty and unpleasant, but in perfect heath." Damn.

Politics became vastly more exciting when the Tories, with Margaret Thatcher at the helm, returned to government in 1979. Clark was ambitious, but it remained unclear which faction within the party would prevail. Though it is scarcely remembered today, Thatcher was initially unpopular within her own party. Her cabinet was full of political rivals — the so-called "wets" who favored more "caring" policies — who threatened her leadership of the party. Her aggressive monetarist poli-

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cies prompted the fear that Thatcher would "turn out to be a Herbert Hoover who would lead us to such a defeat we would be out for 30 years." Given the uncertain political future, Clark, as a true cad should, maintained confidential relations with both camps of the parliamentary party, while acting as a part-time informer for the leadership. (On one occasion he surreptitiously casts two extra ballots for himself in a committee vote.) Of course, the Falklands War ended all doubt, putting Thatcher firmly in charge.

It was time for the master groveler to get to work. After the Falklands victory and the surrender of the Argentine forces, Clark breathlessly rushes up to Thatcher and declares, "Prime Minister, only you could have done this; you did it alone, and your place in history is assured." To which he endearingly adds, "She looked a little startled." From that point forward, Clark vigorously supported Thatcher.

At one point in the diary, Clark notes that Thatcher has "very pretty ankles," which he carefully studies. Later, he looks deep into her eyes. This is outrageous, of course; most people can't bear thinking of Thatcher and sex at the same time. (Except, perhaps, for Thatcher, who tended to surround herself with dashing males.)

Clark worries endlessly if he has fallen out of favor, especially when "the Lady has gone cold, freezing cold on me," as a typical entry reads. Fear of reshuffles hangs tangibly over Clark's entries. He sighs with relief when the prime-ministerial wrath hits a different target and some other poor blighter is reduced to tears and mutterings about the ingratitude of it all. Clark also engages in a high-risk game of brinksmanship, poking fun at senior cabinet members in the Lady's presence in order to elicit that rarest of commodities, a prime-ministerial smile. With perfect intuition, he chooses as his targets people he knows are slightly out of favor. In one entry, Thatcher "looked at me with that lovely, distant smile she puts on when I 'go too far'" after Clark taunts Home Secretary Douglas Hurd.

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For all his aristocratic indifference and devil-may-care attitude, Clark proves that it is possible to appear both brutally frank and servile at the same time — an unusual and rather interesting combination, with shades of "Honest Iago."

THE BOOKS EVOKE the feel of an all-boys school, with Mrs. Thatcher as the stern headmistress. In a sense, Clark and his

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friends never left Eton; they just transposed it onto the House of Commons. All the old habits persist. At Eton — and consequently at private schools all over the world — one does not use Christian names. Thus one member inquires about one of his colleagues, "What's little Moncreiffe's Christian name?" Comes the terse answer: "Little." Clark also skillfully captures the "Yes, Minister" aspects of the British bureaucracy — the absurd comedy of dealing with snooty civil servants. Where Pepys had a small hole drilled in the wall so he could see what went on in his front office, Clark always left his door open so he could monitor the goings-on outside, occasionally barking out orders to keep people on their toes.

Where Pepys had a small hole drilled in the wall so he could see what went on in his front office, Clark always left his door open so he could monitor the goings-on outside, occasionally barking out orders to keep people on their toes.

It didn't always work. Once, when forced to read a particularly turgid speech written for him by one of his civil service minions, Clark became so disgusted that he had to fortify himself with drink — a good deal of drink. By the time he rose to speak in the House of Commons he was so plastered he was unintelligible, sneering contemptuously at the text as he read. Claire Short, a Labour Party MP, noted with prim indignation that the honored member was not sober. Not bloody likely, after a bottle of 1961 Palmer, followed by a 1975, then another 1961, and rounded off with a "delicious" Pichon Longueville. The diary overflows with pledges and self-admonitions to cut down on drinking and to avoid backgammon, but these promises are never kept.

And then there are the women. Like both Pepys and Boswell, Clark cannot get enough of them. He pursues them in trains and in planes, on the beaches and at the ministerials. Here is his memorable run-in with Edith Cresson, later the French prime minister and here an "oh-so-fashionably dressed" lady he meets at a Council of Ministers meeting in Luxembourg: "I was standing in a little huddle with the UK officials just behind my chair, when along came Madame, swinging her hips most outrageously, and all 'get me.' She quite flagrantly (and with great style, I must admit) swept between us, then paused and posed. . . . The whole thing was so outrageous that I had to grin. She immediately froze up, went all don't-think-I'm-that-easy. High horse. . . . I'm not in the slightest degree aroused by the older women. They are fun to sit next to at dinner, but I don't want to get any closer. For me girls have to be succulent and that really means under twenty-five." One occasionally won-

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ders why his wife put up with all this.

Finally, there are the villains of the book; Clark has many. Prime amongst them is the "odious Heseltine" — that is, Michael Heseltine, the principal conspirator against Thatcher. It was Heseltine's resignation over the Westland affair, involving the sale of helicopters, that began Thatcher's downfall. In Clark's view, Heseltine was an arriviste, a "dyslexic of vast ambition" of whom it has been said "he had to buy his own furniture." Ouch. But in the Conservative Party, he who wields the dagger will never wear the crown; Heseltine never became prime minister.

John Major, the eventual winner of the political contest and Thatcher's successor, was "infinitely preferable to that dreadful charlatan, Heseltine," Clark writes. "But John is vulnerable to the charge of 'not yet ready for it.' And he is not classy, which does not worry me, but, worse, he does not (like Mrs. Thatcher) aspire to be classy."

THE FINAL DAYS of Thatcher appear menacing. One senses a bunker mentality at 10 Downing Street. The prime minister herself is out of the country and out of touch. Meanwhile, cabals of power-hungry politicos scheme in various back offices. The story makes depressing, but also fascinating reading: The most successful prime minister since Churchill was toppled not by a popular election, but by the scared men of her own party. The party continues to pay the price of that deed to this very day.

One can understand why Clark — with his alarming candor, continual drunkenness, and general instability — never reached the innermost circle of the cabinet. It's hard, after all, to imagine as minister of defense a man who loudly dismisses Jordan's King Hussein as "an oily little runt" and calls the nations of Africa "Bongo-Bongo Land." Such remarks might be interpreted as disrespectful. Clark's tactlessness may have cost him a cabinet appointment, but people will be reading Clark long after the "serious" players are forgotten.

As in Pepys, a certain elegiac note pervades Clark's memoirs, a sense of the impermanence of everything — of his beloved Saltwood, with its peacocks and moldy library. It is the feeling of stubbornly guarding a way of life that ended a long time ago. Any minute, the peasants may arrive with their pitchforks and take it all away. And as for Clark himself, well, a man who worries endlessly about the fate of his escaped pet jackdaw cannot be a total jerk.

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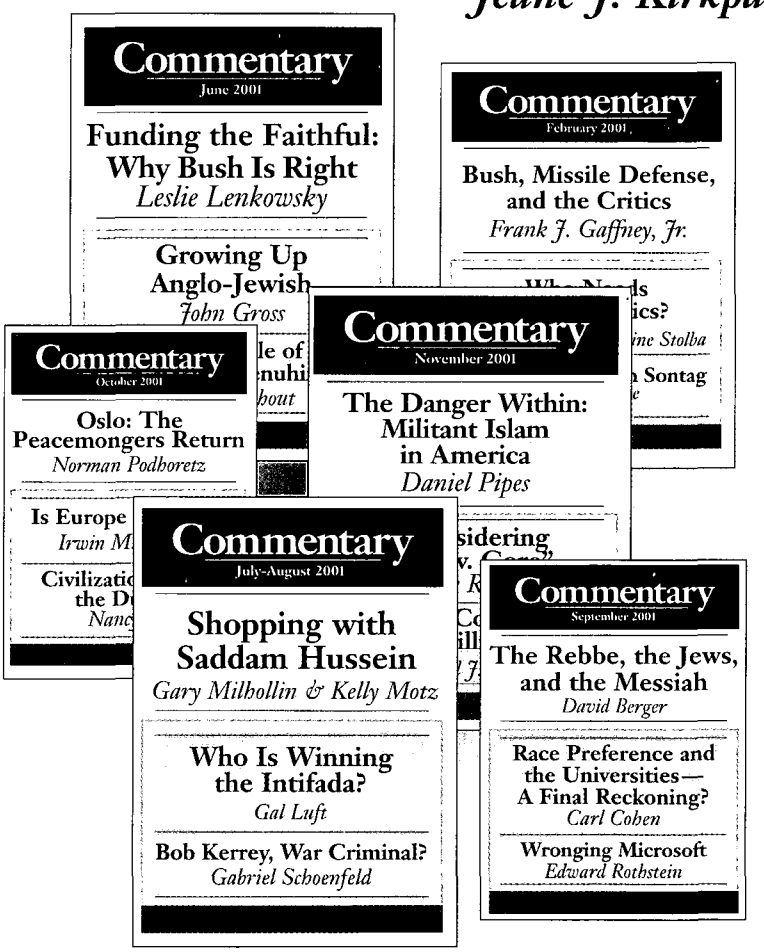
"Very, very important to the life of the United States, to the West, and, I am convinced, to freedom."

—Jeane J. Kirkpatrick



Commentary

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LETTERS

Precautioned To Death

SIR, — Henry Miller and Gregory Conko have put their finger on one of the most pernicious doctrines to make its way into the public arena in some time ("The Perils of Precaution," June/July 2001).

From food made from genetically altered crops to life-sustaining medical equipment such as blood bags, catheters, and intravenous tubing, no product is safe from the ravages of those intent upon subordinating science to speculation. Sadly, those raising unfounded allegations against some of the finest achievements of modern science and technology want to see the precautionary principle underlie regulatory decisions in the United States. A little-noticed campaign is already underway to enshrine the precautionary principle at the state level. The Massachusetts Precautionary Principle Project is the first such effort. A bill has been introduced in the state legislature that would create a commission on children's health and safety. The commission's decisions would be guided by the precautionary principle, which is defined in the bill's text as separating "threats of harm" from "cause-and-effect relationships." Promoted nationally by the Science and Environmental Policy Network, the idea is to have the precautionary principle serve as the basis for all manner of public policy decisions in as many states as possible.

Therein lies a real threat to public health and safety.

BONNER R. COHEN
Lexington Institute
Arlington, Va.

SIR, — After reading your article on the precautionary principle, I could not help wondering why proponents of new technologies — ground-breaking, Buck Rogers kind of stuff — have such limited imaginations. How can you possibly equate the risk of withholding a product from the market (out of a sense of precaution) that is in fact not harmful with the risk of unleashing something on the world that has unknown potentials?

How is it that a simple layman can imagine that in the process of "mixing up apples and oranges" with your sophisticated new techniques, you might end up with something you hadn't bargained for. I fully recognize that all of these products are "tested" and I know that testing is expensive. I also know full well that I will pay for that testing when I buy the new product. But even your testing has limits. Having worked in the medical field I know that drugs are often approved without a full understanding of their side effects profile.

I should insert here that I do agree that conventional technologies do need more oversight when they are used to create something new. And I think that

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the many examples that come to mind of environmental catastrophes that have resulted from simply introducing a new species into an ecosystem to which it is foreign. It should help you understand why those of us whom you label "activists" feel so strongly. Ask the Australians about the impact of the many new species introductions their continent has faced. Ask anyone in South America or the southern U.S. what they think about "killer bees."

And how about these new technologies? Did anybody anticipate that Monsanto's new Bt corn variety was toxic to Monarch Butterfly larvae? Although I don't imagine that will have the kind of serious environmental significance that I am worried about, it simply points out the "unknown." Monsanto didn't even know how invasive the stuff was until it began showing up on other farm fields. Oops.

I want new stuff. I use drugs (medicinal) and other high-tech devices and I recognize that every new step involves risk. But your article condemns those of us who don't bow down to those in white lab coats and simply trust that "experts" know better and that corporations have everyone's best interests at heart.

While I am not a medical doctor, I am aware that their Hippocratic Oath begins with the admonition to "First, do no harm." It preaches a kind of restraint, even in the face of great risk and dire consequences. Not a bad way to look at technology, new and old.

ROB MULLER
Brampton, Ontario

SIR, — I am of the opinion that what Miller and Conko are describing is the age-old problem that people have of not being able to understand the difference between belief and knowledge. It is the underlying reason why religious bigotry, fundamentalist intolerance, and racial prejudice so widely flourished during the past two millennia, and still do in our times.

When one's view of reality becomes exclusive and ideologically binding on your ability to think logically and plan with compassion, it becomes easy to murder, prohibit, damn, eradicate, etc., based on the flimsiest of factual basis. Human freedom, the basic premise of scientific humanism, must triumph in times to come before we can rid ourselves of this cancer of the human spirit, this self-righteous assumption that I am the center of the universe, the repository of all that is correct and finally true. The thoughts expressed in this article must be more often iterated, on more platforms, and must be embedded in ever-more contexts in order for the message to hit home.

FRANS VAN ZYL GILLITTS
Durban, South Africa

Europe's Future

SIR, — Excellent article on the European Union's political components and raison d'être ("Europe in the Balance," June/July 2001). The coming decade, I fear, will see international policy increasingly dominated by European neuroses and use of America as a scapegoat. Due to its economic might, the European Union's contortions will be far more important than any news coming from, for example.

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China.

Furthermore, due to demographic trends, a lower growth rate, and other reasons, the European Union will probably only be able to have a truly "superpower"-sized voice in world affairs over the next 10 or 15 years. After that, growth trends in other parts of the world will ensure that the U.S. and other Western hemisphere powers, as well as China and India, have a greater say. Europe's voice — though combined in the EU — will be proportionally weaker even than it is today.

JAMES SHANKLES
Columbia, S.C.

SIR, — This is a superb and cogent analysis of the historic roots of the European Union's perceived role in governance. It is a natural outgrowth of Europe's evolution since the end of the Cold War — when your neighbor threatens to kill you, you lay aside your misgivings about your armed ally, until your nutty neighbor bankrupts and collapses. Actions speak louder than speeches, however, and the last century poses severe problems for EU proponents. Two world wars were caused by EU nations; both were ended by American intervention.

EU cohesion is a myth. The horror in modern Yugoslavia stripped NATO's fig leaf away and revealed deep divisions in Europe. Since the inception of NATO, Europe has told the U.S. it wants us only when the bear attacks, but to otherwise butt out of European conflicts. When genocide reappeared on European soil, who could act? Germany agonized over reinvading the Balkans, France mumbled about every air strike, Scandinavia was useless, Italy was furious that our dumb jet jockey broke a ski gondola cable, the former Warsaw Pact was broke, and the Swiss held everybody's money. General Clark fought a war he could not win again. America should never have gotten involved. We are stuck in entangling alliances, which helps no one and drains our wealth.

The EU will survive, primarily to control European customs. The Union is useful as a European debating society, aka the UN in short pants. They may form a 60,000-man military, useful in crowd control. Many of their elite despise American values and, with our socialists, attempt to co-opt us, with a strong dominant federal government. The future is ours to lose; it is not the EU's to win. America's lethal enemies lie in Asia and if they destroy us, the EU will be swept aside. Europeans know this.

R.L. HAILS SR.
Olney, Md.

China's National Character

SIR, — Lloyd Macauley Richardson ably and admirably reviews Peter Hessler's *River Town: Two Years on the Yangtze* ("China, Taken Personally," June/July 2001). He rightfully highlights Hessler's uncommon ability to describe, with depth and insight, the stories of a broad cross-section of ordinary people in a rural Chinese village. Indeed, I find Hessler to be one of the few Western observers of China to have acquired the Chinese

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language, then to have used that gift to build non-monetarily based relationships with Chinese people. Thus Richardson accurately states that Hessler's gradual integration into the society helped to make his Sichuan portrait both "vivid" and "personal."

Richardson's conclusion badly misses the mark, however, in drawing sweeping generalizations from Hessler's book about the Chinese "national character." Hessler over-emphasizes the static "traditional" forces of China to the exclusion of obvious examples where the Chinese national character could be conceptualized as one of change driven by recurring patterns of dynamic conflict. One gets the sense in reading Mr. Richardson's review that China is enduringly "rural," adherent to "traditional" Confucian values, "rigid" in social relationships, and that religions are inconsequential since "religions traditionally effected little or no social or political change in China." All are vast oversimplifications. China may be presently and historically rural, with 75 percent of the population toiling as farmers or peasants, but such may have been said of the United States during the latter half of the nineteenth century when 80 percent of the workforce was agriculturally based on family farms or in sharecropping. Like the United States, the rural character of China is changing dramatically, with revolutionary potential. China may be "Confucian," but certainly no more stagnantly and traditionally than Americans remain traditionally "Christian." Confucianism is a malleable concept as has been shown in Taiwan, Hong Kong, Korea, and Singapore. But we do not consider the national character of Korea to be Confucian any more than we consider the national character of the United States to be Christian. Social relationships in rural China may be rigid, but social relationships in the rural countrysides of all nations tend to be rigid and only comprise a part of the national character. Those who value dynamic social relationships go to the cities, i.e. Shanghai, Zhuhai, Shenzhen, Hong Kong, Tiensin.

Finally, the notion that "religions traditionally effected little or no social or political change in China" is simply untrue. Religion has and will have a profound effect on China. Jonathan Spence has recently written an outstanding book about the Tai Ping rebellion of the nineteenth century, an explicitly religious social and political movement that killed millions and briefly instituted a rival Chinese government replete with an army, currency, and a capital in Nanjing. Buddhism was a powerful force for social and political change — influencing and overthrowing dynasties during the Sung and Tang Dynasties. And Christianity strongly pervaded the ruling class of China at the turn of the century, contributing to the rise of Sun Yat Sen's May 4th Movement in the early part of the twentieth century.

Confucian principles lay at the heart of many relationships in China and Taiwan.

Public policy thinkers who want to ponder the Chinese "national character" must take into account Greater China, which includes not only the character of the rural People's Republic, but also Hong Kong, Taiwan, Macao, and the overseas Chinese communities of Singapore, Malaysia, Philippines, and Indonesia —

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who have played such a pivotal role in "China's" political, economic, and social development. The rural tax and labor unrest reported daily in China's own newspapers, not to mention 1989, attests to the fact that reform and struggle are as much in the Chinese character as the conservatism of rural Sichuan.

SCOTT EDMISTON
Arlington, Va.

Commerce and Schools

SIR, — I greatly enjoyed Andrew Stark's thoughtful article "Pizza Hut, Domino's, and the Public Schools" (August/September 2001). While I am more suspicious of feeding students brand names than Stark seems to be (in fact, I make a distinction Stark doesn't mention, between materials that emphasize types of products, such as eggs, and materials which advertise particular brands), I think he misses an argument for what he terms the Domino's-style deal. Stark notes that the Consumers Union and other groups oppose deals whereby private companies reward schools financially in exchange for student consumption of the companies' products because it leads to students choosing among brands "for all the wrong reasons." Actually, I would much rather that students learn to make consumption choices based on social consequences and not merely on the product itself. I think teachers should discuss with students whether and when it makes sense to buy a product for such "external" reasons. The result might be a new generation of eventual sweatshop-boycotting, organic-buying consumers.

ELIZABETH WRIGLEY-FIELD
New York, N.Y.

SIR, — Unfortunately this otherwise thought-provoking piece doesn't once address perhaps the most prevalent intrusion of business into education in U.S. public schools. This is the universally observed practice — one might almost say tradition — of sending out K-12ers as marketing agents of a commercial enterprise to vend on the surrounding captive population all sorts of merchandise from so-called educational publications to junk candy and cookies to Christmas wrap. These deals permit the schools to retain a small percentage of the significant dollars made yet completely ignore the damaging message sent to the whole of America's student body that it's OK to huckster all sorts overpriced garbage (that's where most of it ends up!) as long as you can con your neighbors into the reluctant impression that it is all for a good cause anyway. That this lesson is well-learned by our youth can be seen later on in their life with the proliferation of those publishing house scams and the many other fantastical schemes foisted on the general public — who should rather have been educated well enough to know better.

In fact your article also fails to identify that same damaging message pervading all the promotional schemes mentioned therein — on the acceptability and innocuousness of indiscriminate consumerism as against the development of a healthy, productive life and

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environment, which is what I thought education was mainly supposed to be about.

JOHN CLARKE
Venice, Fla.

Science v. Alternative Medicine

SIR, — Thank you for Ronald W. Dworkin's in-depth article, "Science, Faith, and Alternative Medicine" (August/September 2001). I agree that the placebo effect is underestimated. I subscribe to it merely for the fact that in placebo-controlled trials, one can almost count on a 30 percent to 40 percent minimal response to even objectively measurable parameters, such as blood pressure or weight change, when using placebo. Part of the benefit of the placebo effect resides in the confidence a physician has in his patient interactions. To give someone something that is even known to work requires informed consent, which includes the risk that it won't work as advertised, and this alone can undermine efficacy.

My approach to "alternative medicine" is to inform a patient that there are three main considerations with any treatment: Its efficacy, risks, and monetary cost. Oftentimes, we have no knowledge of the first two, so I am left telling patients that they are treating themselves like guinea pigs while paying a significant monetary price. In addition, herbs often cost the same as, or more than, FDA-approved pharmaceuticals. The first is bottled with minimal cost, the latter is developed after 10 years and $250 million of research. My question is therefore: If the alternative medicine purveyors are so altruistic, why do they charge what they do? (Of course one answer is that the naive public will pay the price, not knowing that they are often treating themselves as guinea pigs).

Finally, I will say that they actually are hostile to Western culture. They tend to attack Western medicine and thought as being rude, crude, hostile to body and environment, entrapped in ignorance and lack of rationale, and blind to trying "new ways." *Au contraire*, it is Western medicine that can take a new idea and objectively expose it to the light of day; Western medicine *created* this way of testing theories in the first place. And alternative medicine is no longer even "alternative" once its efficacy and toxicity have been delineated through objective study. It is merely a mystery that has been solved.

MICHAEL MARCH, M.D.
Raleigh, N.C.

LETTERS TO THE EDITOR

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